

**Title 36: TAXATION**  
**Chapter 822: TAX CREDITS**

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**Maine Revised Statutes**  
**Title 36: TAXATION**  
**Chapter 822: TAX CREDITS**

**§5213. NEW JOBS CREDIT**  
*(REPEALED)*

SECTION HISTORY  
1977, c. 686, §15 (NEW).

**§5214. LEGISLATIVE FINDINGS AND PURPOSE**  
*(REPEALED)*

SECTION HISTORY  
1977, c. 722, (NEW). 1981, c. 364, §68 (RP).

**§5214-A. CREDIT TO BENEFICIARY FOR ACCUMULATION DISTRIBUTION**

**1. General.** A beneficiary of a trust whose adjusted gross income includes all or part of an accumulation distribution by that trust, as defined in the Code, Section 665, or its equivalent, shall be allowed a credit against the tax otherwise due under this Part for all or a proportionate part of any tax paid by the trust under this Part for any preceding taxable year which would not have been payable if the trust had in fact made distribution to its beneficiaries at the times and in the amounts specified in the Code, Section 666, or its equivalent.

[ 1987, c. 504, §30 (AMD) . ]

**2. Limitation on credit.** The credit under this section shall not reduce the tax otherwise due from the beneficiary under this Part to an amount less than would have been due if the accumulation distribution or his part of the accumulation distribution were excluded from his adjusted gross income.

[ 1985, c. 783, §36 (NEW) . ]

SECTION HISTORY  
1985, c. 783, §36 (NEW). 1987, c. 504, §30 (AMD).

**§5215. JOBS AND INVESTMENT TAX CREDIT**

**1. Credit allowed.** A taxpayer, other than a public utility as defined by Title 35-A, section 102, is allowed a credit to be computed as provided in this section against the tax imposed by this Part, subject to the limitations contained in subsection 3. The amount of the credit equals the qualified federal credit, as defined in subsection 2, for taxable years beginning on or after January 1, 1979, except that a credit may be taken with respect to used property, and may not be allowed with respect to an excluded investment.

[ 1997, c. 504, §14 (AMD) . ]

**2. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Qualified federal credit" means, with respect to any taxable year, that portion of the credit allowed by the Internal Revenue Code of 1954, Section 38(b)(1), as of December 31, 1985, that is directly and solely attributable to qualified investment with a location in this State. [1997, c. 504, §15 (AMD).]

A-1. "Excluded investment" means an investment related to a retail facility, unless the taxpayer can demonstrate to the satisfaction of the State Tax Assessor that the commercial result of the project or projects to which the credit relates has not or will not result in a substantial detriment to existing businesses in the State. [1993, c. 672, §1 (NEW); 1993, c. 672, §2 (AFF).]

A-2. "Retail facility" does not include a facility primarily engaged in warehousing, order taking, manufacturing, storage or distribution, even when a portion of the facility is used to make retail sales of tangible personal property directly from the facility. [1993, c. 672, §1 (NEW); 1993, c. 672, §2 (AFF).]

B. The term "new jobs credit base" means the excess of Bureau of Unemployment Compensation wages for the taxable year of the qualified investment or either of the next 2 calendar years over the Bureau of Unemployment Compensation wages for the highest of the 3 calendar years preceding the year of the qualified investment. In computing its new jobs credit base, a successor-taxpayer shall add to its own Bureau of Unemployment Compensation wages the Bureau of Unemployment Compensation wages of its predecessor. [1995, c. 560, Pt. G, §19 (AMD).]

C. The term "Bureau of Unemployment Compensation wages" means the total amount of wages paid by an employer subject to tax under Title 26, section 1221, less any excesses attributable to statutory increases. [1995, c. 560, Pt. G, §20 (AMD).]

D. "Successor-taxpayer" means a taxpayer that has acquired, within 4 years of its taxable year-end, the organization, trade or business, or 50% or more of the assets of the organization, trade or business, of another taxpayer that, at the time of the acquisition, was an employing unit. [1993, c. 672, §1 (AMD); 1993, c. 672, §2 (AFF).]

E. "Used property" means property that is originally placed in service by the taxpayer outside of this State. The cost of property used by the taxpayer outside of this State and then placed into service in this State on or after January 1, 1997 is the original cost of the property to the taxpayer, minus the straight-line depreciation allowable for the tax years or portions of the tax years during which the taxpayer used the property outside of this State. The cost of property used by the taxpayer outside of this State and then placed into service in this State before January 1, 1997 is the original cost of the property. [1997, c. 504, §16 (NEW).]

[ 1997, c. 504, §§15,16 (AMD) .]

**3. Limitations.** The tax credit for any taxable year is applicable only to those taxpayers:

A. With property considered to be qualified investment of at least \$5,000,000 for that taxable year with a situs in the State and placed in service by the taxpayer after January 1, 1979; and [2003, c. 391, §7 (AMD).]

B. With payroll records and reports substantiating that at least 100 new jobs attributable to the operation of property considered to be qualified investment were created in the 24-month period following the date the property was placed in service. To assess the continuing nature of the jobs, the taxpayer must demonstrate that the new jobs credit base is at least \$700,000 for the taxable year of the qualified federal credit or for either of the next 2 calendar years. The \$700,000 must be adjusted proportionally for any change in Title 26, section 1043, subsection 2 wages from \$7,000. With respect to new jobs created after August 1, 1998, but before October 1, 2001, the employer must also demonstrate that the qualifying jobs are covered by a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461, as amended; that group health insurance is provided for employees in those positions; and that the wages for those positions, calculated on a calendar year basis, are greater than the most recent average annual wage in the labor market area in which the employee is employed. [2003, c. 391, §8 (AMD).]

C. [1999, c. 414, §56 (AFF); 1999, c. 414, §46 (RP).]

[ 2003, c. 391, §§7, 8 (AMD) .]

**4. Carry-over.** The amount of credit that may be used by a taxpayer for any taxable year may not exceed either \$500,000 or the amount of tax otherwise due, whichever is less. Any unused credit may be carried over to the following year or years for a period not to exceed 7 years, including the year the credit was first taken, and may be deducted from the taxpayer's tax for that year or those years, subject to the same limitations provided in this subsection.

[ 1993, c. 672, §1 (AMD); 1993, c. 672, §2 (AFF) .]

**5. Carry-back.** There may be no carry-back to prior years of the amount of credit allowable under this section.

[ 1993, c. 672, §1 (AMD); 1993, c. 672, §2 (AFF) .]

**6. Recapture.** If, during any taxable year, any qualified investment property is disposed of, or otherwise ceases to be property covered by subsection 3, paragraph A with respect to the taxpayer, before the end of the useful life that was taken into account in computing the credit under subsection 1, then the tax under this Part for that taxable year must be increased by an amount equal to the aggregate decrease in the credit allowed under subsection 1 for all prior taxable years that would have resulted solely from substituting for the useful life, in determining qualified investment under the Internal Revenue Code of 1954 as of December 31, 1985, the period beginning with the time the property was placed in service by the taxpayer and ending with the time the property ceased to be property covered by subsection 3.

[ 2007, c. 627, §89 (AMD) .]

**6-A. Affiliated groups; tax years prior to January 1, 1995.** This subsection applies retroactively to all tax years beginning before the effective date of this subsection as well as prospectively to all tax years beginning on or after the effective date of this subsection but prior to January 1, 1995 and for which the taxpayer's right to file an original or amended return had not or has not expired at the time of the taxpayer's filing of the return. In the case of corporations that are members of an affiliated group engaged in a unitary business, the credit provided for in this section applies as follows.

A. The credit provided for in this section, in an amount equal to the aggregate qualified federal credit for all taxable corporations that are members of an affiliated group engaged in a unitary business, must be allowed against the total tax liability of all the taxable corporations that are members of the affiliated group engaged in a unitary business if the taxable corporations that are members of the affiliated group have, in the aggregate:

- (1) Property considered to be qualified investment of at least \$5,000,000 for that taxable year with a situs in the State and placed in service by the taxable corporations after January 1, 1979;
- (2) Payroll records and reports substantiating that at least 200 new jobs attributable to the operation of property considered to be qualified investment were created in the 12-month period following the date the property was placed in service; and
- (3) A new jobs credit base of at least \$1,400,000 for the taxable year of the qualified federal credit or the next calendar year. The \$1,400,000 must be adjusted proportionally for any change in Title 26, section 1043, subsection 2 wages from \$7,000. [1993, c. 672, §1 (NEW); 1993, c. 672, §2 (AFF) .]

B. The amount of the credit that may be used in any taxable year may not exceed the lesser of \$300,000 or the total amount of tax liability otherwise due of all taxable corporations that are members of an affiliated group engaged in a unitary business. Any unused credit may be carried over to the following

year or years for a period not to exceed 7 years, including the year the credit was first taken, and may be deducted from the tax imposed by this Part for that year or those years, subject to the same limitations provided in this subsection. [1993, c. 672, §1 (NEW); 1993, c. 672, §2 (AFF).]

The credit must be apportioned among the taxable corporations in the affiliated group in the same proportion that the tax liability of each taxable corporation in the affiliated group bears to the total tax liability of all the taxable corporations in the affiliated group.

[ 1993, c. 672, §1 (NEW); 1993, c. 672, §2 (AFF) .]

**6-B. Affiliated groups; tax years beginning on or after January 1, 1995.** This subsection applies to tax years beginning on or after January 1, 1995. In the case of corporations that are members of an affiliated group engaged in a unitary business, the credit provided for in this section applies as follows.

A. The credit provided for in this section, in an amount equal to the aggregate qualified federal credit for all taxable corporations that are members of an affiliated group engaged in a unitary business, must be allowed against the total tax liability of all the taxable corporations that are members of the affiliated group engaged in a unitary business if the taxable corporations that are members of the affiliated group have, in the aggregate:

- (1) Property considered to be qualified investment of at least \$5,000,000 for that taxable year with a situs in the State and placed in service by the taxable corporations after January 1, 1979;
- (2) Payroll records and reports substantiating that at least 100 new jobs attributable to the operation of property considered to be qualified investment were created in the 24-month period following the date the property was placed in service; and
- (3) A new jobs credit base of at least \$700,000 for the taxable year of the qualified federal credit or either of the next 2 calendar years. The \$700,000 must be adjusted proportionally for any change in Title 26, section 1043, subsection 2 wages from \$7,000. [1993, c. 672, §1 (NEW); 1993, c. 672, §2 (AFF).]

B. The amount of the credit that may be used in any taxable year may not exceed the lesser of \$500,000 or the total amount of tax liability otherwise due of all taxable corporations that are members of an affiliated group engaged in a unitary business. Any unused credit may be carried over to the following year or years for a period not to exceed 7 years, including the year the credit was first taken, and may be deducted from the tax imposed by this Part for that year or those years, subject to the same limitations provided in this subsection. [1993, c. 672, §1 (NEW); 1993, c. 672, §2 (AFF).]

The credit must be apportioned among the taxable corporations in the affiliated group in the same proportion that the tax liability of each taxable corporation in the affiliated group bears to the total tax liability of all the taxable corporations in the affiliated group.

[ 1993, c. 672, §1 (NEW); 1993, c. 672, §2 (AFF) .]

**7. Legislative findings.** The Legislature finds that encouragement of the growth of major industry in the State is in the public interest and promotes the general welfare of the people of the State; that the use of investment tax credits to encourage industry to make substantial capital investments in the State is necessary to promote the purpose of the Legislature of encouraging the growth of industry; and that the requirements of at least \$5,000,000 in qualified investment in the State and an increase of at least 100 new jobs following the investment are reasonable qualifying criteria for the application of an investment tax credit and will best promote substantial capital investment in the State.

[ 1993, c. 672, §1 (AMD); 1993, c. 672, §2 (AFF) .]

**8. Report on jobs and investment tax credit.**

[ 2001, c. 652, §10 (RP) .]

**SECTION HISTORY**

1977, c. 722, (NEW). 1979, c. 541, §A237 (AMD). 1981, c. 364, §69 (AMD). 1985, c. 535, §§16-18 (AMD). 1987, c. 504, §31 (AMD). 1987, c. 772, §39 (AMD). 1987, c. 880, §§1-3 (AMD). 1993, c. 395, §21 (AMD). 1993, c. 672, §1 (AMD). 1993, c. 672, §2 (AFF). 1995, c. 560, §§G19,20 (AMD). 1997, c. 504, §§14-16 (AMD). 1997, c. 761, §§3,4 (AMD). 1999, c. 414, §§45,46 (AMD). 1999, c. 414, §56 (AFF). 1999, c. 708, §44 (AMD). 2001, c. 652, §10 (AMD). 2003, c. 391, §§7,8 (AMD). 2007, c. 627, §89 (AMD).

**§5216. CREDIT FOR INVESTMENT IN THE MAINE CAPITAL CORPORATION OR THE MAINE NATURAL RESOURCE CAPITAL COMPANY**

*(REPEALED)*

**SECTION HISTORY**

1981, c. 364, §70 (NEW). 1983, c. 519, §§26,27 (AMD). 1983, c. 700, §§5,6 (AMD). 1985, c. 344, §98 (AMD). 1985, c. 714, §§41-43 (AMD).

**§5216-A. CREDIT FOR INVESTMENT IN THE MAINE NATURAL RESOURCE CAPITAL COMPANY**

*(REPEALED)*

**SECTION HISTORY**

1985, c. 714, §44 (NEW). 1987, c. 854, §§3,5 (RP).

**§5216-B. SEED CAPITAL INVESTMENT TAX CREDIT**

**1. Definitions.** As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Certificate" means a tax credit certificate issued by the Finance Authority of Maine pursuant to Title 10, chapter 110, subchapter IX. [1987, c. 854, §4, 5 (NEW).]

B. "Investment" means an investment for which a certificate has been received. [1987, c. 854, §4, 5 (NEW).]

C. "Investor" means a taxpayer or private venture capital fund that has received a certificate. [2011, c. 454, §14 (AMD).]

D. "Private venture capital fund" has the same meaning as under Title 10, section 1100-T, subsection 1-A. [2011, c. 454, §15 (NEW).]

[ 2011, c. 454, §§14, 15 (AMD) .]

**2. Credit.** An investor is entitled to a credit against the tax otherwise due under this Part equal to the amount of the tax credit certificate issued by the Finance Authority of Maine in accordance with Title 10, section 1100-T and as limited by this section. Except with respect to tax credit certificates issued under Title 10, section 1100-T, subsection 2-C, in the case of partnerships, limited liability companies, S corporations, nontaxable trusts and any other entities that are treated as flow-through entities for tax purposes under the Code, the individual partners, members, stockholders, beneficiaries or equity owners of such entities must be treated as the investors under this section and are allowed a credit against the tax otherwise due from them

under this Part in proportion to their respective interests in those partnerships, limited liability companies, S corporations, trusts or other flow-through entities. Except as limited or authorized by subsection 3 or 4, 25% of the credit must be taken in the taxable year in which the investment is made and 25% per year must be taken in each of the next 3 taxable years. With respect to tax credit certificates issued under Title 10, section 1100-T, subsection 2-C, the credits are fully refundable and the investor may file a return requesting a refund for an investment for which it has received a tax credit certificate on or after January 1st of the calendar year after the calendar year in which the investment was made.

[ 2013, c. 438, §6 (AMD) .]

**3. Limitation.** With respect to tax credit certificates issued under Title 10, section 1100-T, subsection 2 or 2-A, the amount of the credit allowed under this section for any one taxable year may not exceed 50% of the tax imposed by this Part on the investor for the taxable year before application of the credit.

[ 2011, c. 454, §17 (AMD) .]

**4. Carry forward.** Credits not taken because of the limitation in subsection 3 shall be taken in the next taxable year in which the credit may be taken, provided that the limitation of subsection 3 shall also apply to the carry-forward years. In no case may this carry-forward period exceed 15 years.

[ 1987, c. 854, §§4, 5 (NEW) .]

**5. Recapture.** In the event that the Finance Authority of Maine revokes a certificate, there must be added to the tax imposed on the investor under this Part for the taxable year in which the revocation occurs an amount equal to the total amount of credit authorized and revoked minus the amount of credit not yet taken.

[ 2011, c. 454, §18 (AMD) .]

#### SECTION HISTORY

1987, c. 854, §§4,5 (NEW). 1999, c. 752, §4 (AMD). 2001, c. 446, §4 (AMD). 2001, c. 446, §6 (AFF). 2001, c. 642, §11 (AMD). 2001, c. 642, §12 (AFF). 2003, c. 20, §X6 (AMD). 2003, c. 451, §E8 (AMD). 2011, c. 454, §§14-18 (AMD). 2013, c. 438, §6 (AMD).

## §5216-C. CONTRIBUTIONS TO FAMILY DEVELOPMENT ACCOUNT RESERVE FUNDS

**1. Credit allowed.** A taxpayer who contributes to a family development account reserve fund as defined in Title 10, section 1075 is allowed a credit against the tax imposed by this Part equal to the lower of:

- A. Twenty-five thousand dollars; or [1999, c. 475, §6 (NEW); 1999, c. 475, §7 (AFF) .]
- B. Fifty percent of the amount contributed by the taxpayer. [1999, c. 475, §6 (NEW); 1999, c. 475, §7 (AFF) .]

Only one credit may be claimed on each annual income tax return regardless of filing status. The credit allowed under this section may not reduce the tax to less than 0 and must be applied after allowance for all other eligible credits. A taxpayer who claims a credit under this section may not claim an itemized charitable deduction under section 5125 for the amount of the contribution that qualified for the credit.

[ 1999, c. 475, §6 (NEW); 1999, c. 475, §7 (AFF) .]

**2. Aggregate limitation.** The total amount of contributions that may be claimed as credits under this section in a state fiscal year is limited to \$200,000.

[ 1999, c. 475, §6 (NEW); 1999, c. 475, §7 (AFF) .]

**3. Verification of eligibility.** The Finance Authority of Maine, referred to in this section as the "authority," shall verify all claims for a credit under this section and shall provide the assessor with a list of all eligible claimants. The list must be prioritized based upon the date of the eligible contribution. The authority may establish procedures requiring submission of information necessary to verify eligibility by family development account reserve fund administrators.

[ 1999, c. 475, §6 (NEW); 1999, c. 475, §7 (AFF) .]

#### SECTION HISTORY

1999, c. 475, §6 (NEW). 1999, c. 475, §7 (AFF).

## §5216-D. MAINE FISHERY INFRASTRUCTURE INVESTMENT TAX CREDIT PROGRAM

**1. Definitions.** As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Certificate" means a tax credit certificate issued by the Department of Inland Fisheries and Wildlife pursuant to Title 12, chapter 903, subchapter 8. [2011, c. 380, Pt. HHHH, §3 (NEW).]

B. "Investment" means an investment or contribution for which a certificate has been received. [2011, c. 380, Pt. HHHH, §3 (NEW).]

C. "Investor" means a taxpayer that has received a certificate. [2011, c. 380, Pt. HHHH, §3 (NEW).]

[ 2011, c. 380, Pt. HHHH, §3 (NEW) .]

**2. Credit.** An investor is entitled to a credit against the tax otherwise due under this Part equal to the amount of the tax credit certificate issued by the Department of Inland Fisheries and Wildlife in accordance with Title 12, section 10331 and as limited by subsection 3. In the case of partnerships, limited liability companies, S corporations, nontaxable trusts and any other entities that are treated as pass-through entities for tax purposes under the Code, but not including pass-through entities taxed under chapter 819, the individual partners, members, stockholders, beneficiaries or equity owners of such entities must be treated as the investors under this section and are allowed a credit against the tax otherwise due from them under this Part in proportion to their respective interests in those partnerships, limited liability companies, S corporations, nontaxable trusts or other pass-through entities. Except as limited or authorized by subsection 3 or 4, 25% of the credit must be taken in the taxable year the investment is made and 25% per year must be taken in each of the next 3 taxable years.

[ 2011, c. 380, Pt. HHHH, §3 (NEW) .]

**3. Limitation.** The amount of the credit allowed under this section for any one taxable year may not exceed 50% of the tax imposed by this Part on the investor for the taxable year before application of the credit. The credit allowed under this section may not reduce the tax otherwise due under this Part to less than zero.

[ 2011, c. 548, §30 (AMD); 2011, c. 548, §36 (AFF) .]

**4. Carry-forward.** A credit under this section not taken because of the limitations in subsection 3 must be taken in the next taxable year in which the credit may be taken, and the limitations of subsection 3 also apply to the carry-forward years. In no case may this carry-forward period exceed 15 years.

[ 2011, c. 548, §30 (AMD); 2011, c. 548, §36 (AFF) .]

**5. Recapture.** If the Department of Inland Fisheries and Wildlife revokes a certificate, there must be added to the tax imposed on the investor under this Part for the taxable year in which the revocation occurs an amount equal to the excess of the amount of credit revoked over the amount of credit not yet taken.

[ 2011, c. 380, Pt. HHHH, §3 (NEW) .]

#### **6. Effect of other tax benefits.**

[ 2011, c. 644, §33 (AFF); 2011, c. 644, §28 (RP) .]

#### SECTION HISTORY

2011, c. 380, Pt. HHHH, §3 (NEW). 2011, c. 548, §30 (AMD). 2011, c. 548, §36 (AFF). 2011, c. 644, §28 (AMD). 2011, c. 644, §33 (AFF).

## **§5217. EMPLOYER-ASSISTED DAY CARE**

**1. Credit allowed.** A taxpayer constituting an employing unit is allowed a credit against the tax imposed by this Part for each taxable year equal to the lowest of:

A. Five thousand dollars; [1987, c. 769, Pt. A, §159 (RPR).]

B. Twenty percent of the costs incurred by the taxpayer in providing day care service for children of employees of the taxpayer; or [1987, c. 769, Pt. A, §159 (RPR).]

C. One hundred dollars for each child of an employee of the taxpayer enrolled on a full-time basis, or each full-time equivalent, throughout the taxable year in day care service provided by the taxpayer or in the first year that the taxpayer provides day care services, for each child enrolled on a full-time basis, or each full-time equivalent, on the last day of the year. [1987, c. 769, Pt. A, §159 (RPR).]

[ 1987, c. 769, Pt. A, §159 (RPR) .]

**2. Definitions.** As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Employing unit" has the same meaning as in Title 26, section 1043. [1987, c. 769, Pt. A, §159 (RPR).]

B. "Providing day care services" means expending funds to build, furnish, license, staff, operate or subsidize a day care center licensed by the Department of Health and Human Services to provide day care services to children of employees of the taxpayer at no profit to the taxpayer or to contract with a day care facility licensed by or registered with the department to provide day care services to children of the employees of the taxpayer. "Providing day care services" also includes the provision of day care resource and referral services to employees and the provision of vouchers by an employer to an employee for purposes of paying for day care services for children of the employee. [1987, c. 769, Pt. A, §159 (RPR); 2003, c. 689, Pt. B, §6 (REV).]

C. "Quality child care services" has the meaning set forth in section 5219-Q, subsection 1. [2001, c. 396, §36 (AMD).]

[ 2001, c. 396, §36 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

**3. Carryover; carry back.** The amount of the credit that may be used by a taxpayer for a taxable year may not exceed the amount of tax otherwise due under this Part. Any unused credit may be carried over to the following year or years for a period not to exceed 15 years or it may be carried back for a period not to exceed 3 years.

[ 1999, c. 708, §45 (AMD) . ]

**4. Quality child care services.** The credit allowed under subsection 1 doubles in amount if the day care service provided by the taxpayer constitutes quality child care services.

[ 2001, c. 396, §37 (AMD) . ]

#### SECTION HISTORY

1987, c. 343, §11 (NEW). 1987, c. 504, §32 (NEW). 1987, c. 769, §A159 (RPR). 1999, c. 401, §§NNN3,4 (AMD). 1999, c. 401, §§NNN8,9 (AFF). 1999, c. 708, §45 (AMD). 2001, c. 358, §D1 (AFF). 2001, c. 396, §§36,37 (AMD). 2003, c. 689, §B6 (REV).

### §5217-A. INCOME TAX PAID TO OTHER TAXING JURISDICTION

A resident individual is allowed a credit against the tax otherwise due under this Part, excluding the tax imposed by section 5203-C, for the amount of income tax imposed on that individual for the taxable year by another state of the United States, a political subdivision of any such state, the District of Columbia or any political subdivision of a foreign country that is analogous to a state of the United States with respect to income subject to tax under this Part that is derived from sources in that taxing jurisdiction. In determining whether income is derived from sources in another jurisdiction, the assessor may not employ the law of the other jurisdiction but shall instead assume that a statute equivalent to section 5142 applies in that jurisdiction. The credit, for any of the specified taxing jurisdictions, may not exceed the proportion of the tax otherwise due under this Part, excluding the tax imposed by section 5203-C, that the amount of the taxpayer's Maine adjusted gross income derived from sources in that taxing jurisdiction bears to the taxpayer's entire Maine adjusted gross income; except that, when a credit is claimed for taxes paid to both a state and a political subdivision of a state, the total credit allowable for those taxes does not exceed the proportion of the tax otherwise due under this Part, excluding the tax imposed by section 5203-C, that the amount of the taxpayer's Maine adjusted gross income derived from sources in the other state bears to the taxpayer's entire Maine adjusted gross income. [2003, c. 673, Pt. JJ, §4 (AMD); 2003, c. 673, Pt. JJ, §6 (AFF) . ]

#### SECTION HISTORY

1987, c. 769, §A160 (NEW). 1991, c. 528, §N16 (AMD). 1991, c. 528, §§N17,RRR (AFF). 1991, c. 591, §N16 (AMD). 1991, c. 591, §N17 (AFF). 2003, c. 391, §9 (AMD). 2003, c. 673, §JJ4 (AMD). 2003, c. 673, §JJ6 (AFF) .

### §5217-B. EMPLOYER-PROVIDED LONG-TERM CARE BENEFITS

**1. Credit.** A taxpayer constituting an employing unit is allowed a credit against the tax imposed by this Part for each taxable year that begins on or after July 10, 1989 and before January 1, 2000 equal to the lowest of the following:

A. Five thousand dollars; [1989, c. 556, Pt. B, §11 (NEW) . ]

B. Twenty percent of the costs incurred by the taxpayer in providing long-term care policy coverage as part of a benefit package; or [1989, c. 556, Pt. B, §11 (NEW) . ]

C. One hundred dollars for each employee covered by an employer-provided long-term care policy. [1989, c. 556, Pt. B, §11 (NEW).]

[ 1999, c. 521, Pt. C, §7 (AMD); 1999, c. 521, Pt. C, §9 (AFF) .]

**2. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings:

A. "Long-term care policy" has the same meaning as in Title 24-A, section 5051. [1989, c. 556, Pt. B, §11 (NEW).]

B. "Employing unit" has the same meaning as in Title 26, section 1043. [1989, c. 556, Pt. B, §11 (NEW).]

[ 1989, c. 556, Pt. B, §11 (NEW) .]

**3. Limitation.** The amount of the credit that may be used by a taxpayer for a taxable year may not exceed the amount of tax otherwise due under this Part. Any unused credit may be carried over to the following year or years for a period not to exceed 15 years.

[ 1989, c. 556, Pt. B, §11 (NEW) .]

#### SECTION HISTORY

1989, c. 556, §B11 (NEW). 1999, c. 521, §C7 (AMD). 1999, c. 521, §C9 (AFF).

## §5217-C. EMPLOYER-PROVIDED LONG-TERM CARE BENEFITS ON AND AFTER JANUARY 1, 2000

**1. Credit.** A taxpayer constituting an employing unit is allowed a credit against the tax imposed by this Part for each taxable year equal to the lowest of the following:

A. Five thousand dollars; [1999, c. 521, Pt. C, §8 (NEW); 1999, c. 521, Pt. C, §9 (AFF).]

B. Twenty percent of the costs incurred by the taxpayer in providing eligible long-term care insurance as part of a benefit package; or [2001, c. 679, §5 (AMD); 2001, c. 679, §6 (AFF).]

C. One hundred dollars for each employee covered by employer-provided eligible long-term care insurance. [2001, c. 679, §5 (AMD); 2001, c. 679, §6 (AFF).]

[ 2001, c. 679, §5 (AMD); 2001, c. 679, §6 (AFF) .]

**2. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings:

A. "Employing unit" has the same meaning as in Title 26, section 1043. [1999, c. 521, Pt. C, §8 (NEW); 1999, c. 521, Pt. C, §9 (AFF).]

B. [2001, c. 679, §6 (AFF); 2001, c. 679, §5 (RP).]

C. "Eligible long-term care insurance" means:

(1) For tax years beginning on or after January 1, 2000, a qualified long-term care insurance contract as defined in the Code, Section 7702B(b); and

(2) For tax years beginning on or after January 1, 2002, a contract specified in subparagraph (1) or a long-term care insurance policy certified by the Superintendent of Insurance under Title 24-A, section 5075-A. [2001, c. 679, §5 (NEW); 2001, c. 679, §6 (AFF).]

[2001, c. 679, §5 (AMD); 2001, c. 679, §6 (AFF).]

**3. Limitation.** The amount of the credit that may be used by a taxpayer for a taxable year may not exceed the amount of tax otherwise due under this Part. Any unused credit may be carried over to the following year or years for a period not to exceed 15 years.

[1999, c. 521, Pt. C, §8 (NEW); 1999, c. 521, Pt. C, §9 (AFF).]

#### SECTION HISTORY

1999, c. 521, §C8 (NEW). 1999, c. 521, §C9 (AFF). 2001, c. 679, §5 (AMD). 2001, c. 679, §6 (AFF).

## §5217-D. CREDIT FOR EDUCATIONAL OPPORTUNITY

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Benchmark loan payment" means the monthly loan payment for the amount of the principal cap paid over 10 years at the interest rate for federally subsidized Stafford loans under 20 United States Code, Section 1077a applicable during the individual's last year of enrollment at an accredited Maine community college, college or university. [2013, c. 525, §15 (AMD).]

A-1. "Accredited non-Maine community college, college or university" means an institution located outside the State that is accredited by a regional accrediting association or by one of the specialized accrediting agencies recognized by the United States Secretary of Education. [2011, c. 665, §7 (NEW); 2011, c. 665, §13 (AFF).]

A-2. "Accredited Maine community college, college or university" has the same meaning as in Title 20-A, section 12541, subsection 1. [2013, c. 525, §15 (NEW).]

B. "Employer" has the same meaning as the term "employing unit," as defined in Title 26, section 1043, subsection 10. [2007, c. 469, Pt. B, §1 (NEW).]

B-1. "Financial aid package" means financial aid obtained by a student after December 31, 2007 for attendance at an accredited Maine community college, college or university after December 31, 2007. For purposes of a qualified individual claiming a credit under this section for tax years beginning on or after January 1, 2013, the financial aid package may include financial aid obtained for up to 30 credit hours of course work at an accredited non-Maine community college, college or university earned prior to transfer to an accredited Maine community college, college or university, if the 30 credit hours were earned after December 31, 2007 and the transfer occurred after December 31, 2012. For purposes of an employer claiming a credit under this section for tax years beginning on or after January 1, 2013, the financial aid package may include financial aid obtained by a qualified employee after December 31, 2007 for attendance at an accredited non-Maine community college, college or university after December 31, 2007. The financial aid package may include private loans or less than the full amount of loans under federal programs, depending on the practices of the accredited Maine or non-Maine community college, college or university. Loans are includable in the financial aid package only if entered into prior to July 1, 2023. [2013, c. 525, §15 (NEW).]

C. "Full time" employment means employment with a normal workweek of 32 hours or more. [2007, c. 469, Pt. B, §1 (NEW).]

D. "Part time" employment means employment with a normal workweek of between 16 and 32 hours. [2007, c. 469, Pt. B, §1 (NEW).]

D-1. "Principal cap" means:

- (1) For an individual graduating from an accredited Maine community college, college or university before January 1, 2015, the amount calculated by the State Tax Assessor under Title 20-A, section 12542, former subsection 2-A;
- (2) For an individual obtaining a bachelor's degree and graduating from an accredited Maine community college, college or university on or after January 1, 2015, the average in-state tuition and mandatory fees for attendance at the University of Maine System for the academic year ending during the calendar year prior to the year of graduation multiplied by 4; and
- (3) For an individual obtaining an associate degree and graduating from an accredited Maine community college, college or university on or after January 1, 2015, the average in-state tuition and mandatory fees for attendance at the Maine Community College System for the academic year ending during the calendar year prior to the year of graduation multiplied by 2. [ 2013 , c . 525 , §15 (NEW) . ]

E. "Qualified employee" means an employee who is employed at least part time and who is a qualified individual or who would be a qualified individual except that the employee's associate or bachelor's degree was awarded by an accredited non-Maine community college, college or university. [ 2013 , c . 525 , §15 (AMD) . ]

F. [ 2009 , c . 553 , Pt . B , §5 (AFF) ; 2009 , c . 553 , Pt . B , §2 (RP) . ]

G. "Qualified individual" means an individual, including the spouse filing a joint return with the individual under section 5221, who is eligible for the credit provided in this section. An individual is eligible for the credit if the individual:

- (1) Attended, and obtained an associate or a bachelor's degree from, an accredited Maine community college, college or university after December 31, 2007. The individual need not obtain the degree from the institution in which that individual originally enrolled, as long as all course work toward the degree is performed at an accredited Maine community college, college or university, except that an individual who transfers to an accredited Maine community college, college or university after December 31, 2012 from outside the State and earned no more than 30 credit hours of course work toward the degree at an accredited non-Maine community college, college or university after December 31, 2007 and prior to the transfer is eligible for the credit if all other eligibility criteria are met. Program eligibility for such an individual must be determined as if the commencement of course work at the relevant accredited Maine community college, college or university was the commencement of course work for the degree program as a whole;
- (2) Was a Maine resident while in attendance at the accredited Maine community college, college or university. For purposes of this subparagraph, "Maine resident" has the same meaning as in Title 20-A, section 12541, subsection 5;
- (3) Lived in Maine while pursuing the degree, excepting periods when it was reasonably necessary for the individual to live elsewhere as part of the relevant institution's academic programs or while pursuing course work at an accredited non-Maine community college, college or university as provided in subparagraph (1);
- (4) During the taxable year, was a resident individual; and
- (5) Worked during the taxable year:
  - (a) For tax years beginning prior to January 1, 2015, at least part time for an employer located in this State or, for tax years beginning on or after January 1, 2013, was, during the taxable year, deployed for military service in the United States Armed Forces, including the National Guard and the Reserves of the United States Armed Forces; or

(b) For tax years beginning on or after January 1, 2015, at least part time in this State for an employer or as a self-employed individual or was, during the taxable year, deployed for military service in the United States Armed Forces, including the National Guard and the Reserves of the United States Armed Forces.

As used in this subparagraph, "deployed for military service" has the same meaning as in Title 26, section 814, subsection 1, paragraph A. [2013, c. 525, §15 (AMD).]

H. "Resident individual" means someone:

(1) Who is domiciled in this State; or

(2) Who is not domiciled in this State, but maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the taxable year in this State, unless the individual is a member of the Armed Forces of the United States. [2011, c. 665, §13 (AFF); 2011, c. 665, §9 (RPR).]

I. "Seasonal employment" has the same meaning as in Title 26, section 1251 and in regulations promulgated thereunder. [2007, c. 469, Pt. B, §1 (NEW).]

J. "Term of employment" includes all months when the individual is actually employed. It includes time periods when an individual is on leave or vacation. It extends to the full year for individuals working for employers who customarily operate only during a regularly recurring period of 9 months or more in a calendar year. For individuals working for employers who customarily operate only during regularly recurring periods of less than 9 months in a calendar year, including seasonal employment, the term of employment extends only to months during which the individual is actually working. [2013, c. 525, §15 (AMD).]

[2013, c. 525, §15 (AMD).]

**2. Credit allowed.** A qualified individual or an employer of a qualified employee is allowed a credit against the tax imposed by this Part in accordance with the provisions of this section. The credit is created to implement the Job Creation Through Educational Opportunity Program established under Title 20-A, chapter 428-C.

A. A taxpayer entitled to the credit for any taxable year may carry over and apply to the tax liability for any one or more of the next succeeding 10 years the portion, as reduced from year to year, of any unused credits. [2011, c. 665, §10 (NEW); 2011, c. 665, §13 (AFF).]

B. A taxpayer may claim a credit based on loan payments actually made to a relevant lender or lenders under this section only with respect to loans that are part of the qualified individual's financial aid package and, for tax years beginning on or after January 1, 2015, only with respect to loan payment amounts paid by the taxpayer during that part of the taxable year that the qualified individual worked in this State. Payment of loan amounts in excess of the amounts due during the taxable year does not qualify for the credit. Refinanced loans that are part of the qualified individual's financial aid package are eligible for the credit under this section if the refinanced loans remain separate from other debt, including debt incurred in an educational program other than the degree program for which a credit is claimed under this section. Forbearance or deferment of loan payments does not affect eligibility for the credit under this section. For tax years beginning on or after January 1, 2015, an individual who worked in this State for any part of a month during the Maine residency period of the taxable year is considered to have worked in this State for the entire month. For tax years beginning on or after January 1, 2015, an individual who worked outside this State for an entire month during the Maine residency period is considered to have worked in this State during that month, except that in no case may this exception exceed 3 months during the Maine residency period of the taxable year. [2013, c. 525, §15 (AMD).]

C. Except as provided in subsection 3, the credit under this section may not reduce the tax otherwise due under this Part to less than zero. [2013, c. 525, §15 (AMD).]

D. [2013, c. 525, §15 (RP).]

[2013, c. 525, §15 (AMD).]

**3. Calculation of the credit; qualified individuals.** Subject to subsection 2 and except as provided in this subsection, the credit with respect to a qualified individual is equal to the amount determined under paragraph A or paragraph B, whichever is less, multiplied by the proration factor:

A. The benchmark loan payment multiplied by the number of months during the taxable year in which the taxpayer made loan payments; or [2013, c. 525, §15 (AMD).]

B. The monthly loan payment amount multiplied by the number of months during the taxable year in which the taxpayer made loan payments. [2013, c. 525, §15 (AMD).]

C. [2009, c. 553, Pt. B, §5 (AFF); 2009, c. 553, Pt. B, §4 (RP).]

The credit under this subsection for an individual who transferred to an accredited Maine community college, college or university from an accredited non-Maine community college, college or university after December 31, 2012 and who earned no more than 30 credit hours of course work toward the degree at an accredited non-Maine community college, college or university is equal to 50% of the amount otherwise determined under this section in the case of an associate degree and equal to 75% of the amount otherwise determined under this section in the case of a bachelor's degree.

Notwithstanding subsection 2, paragraph C, the credit under this subsection is refundable to the extent the credit is based on loans included in the financial aid package acquired to obtain a bachelor's degree or associate degree in science, technology, engineering or mathematics.

For purposes of this subsection, the proration factor is the amount derived by dividing the total number of academic credit hours earned for a bachelor's or associate degree after December 31, 2007 by the total number of academic credit hours earned for the bachelor's or associate degree.

[2013, c. 525, §15 (AMD).]

#### **4. Conditions for an opportunity program participant claiming the credit.**

[2013, c. 525, §15 (RP).]

**5. Calculation of the credit; employers.** Subject to subsection 2, a taxpayer constituting an employer making loan payments directly to a lender during the taxable year on loans included in a qualified employee's financial aid package may claim a credit equal to the benchmark loan payment or the actual monthly loan payment made by the employer on the loans, whichever is less, multiplied by the number of months during the taxable year the employer made loan payments on behalf of the qualified employee during the term of employment. The credit under this subsection may not be claimed with respect to months of the taxable year during which the employee was not a qualified employee.

If the qualified employee is employed on a part-time basis during the taxable year, the credit with respect to that employee is limited to 50% of the credit otherwise determined under this subsection.

[2013, c. 525, §15 (AMD).]

#### **SECTION HISTORY**

2007, c. 469, Pt. B, §1 (NEW). 2009, c. 434, §78 (AMD). 2009, c. 553, Pt. B, §§2-4 (AMD). 2009, c. 553, Pt. B, §5 (AFF). 2011, c. 665, §§7-12 (AMD). 2011, c. 665, §13 (AFF). 2013, c. 525, §15 (AMD).

## §5218. INCOME TAX CREDIT FOR CHILD CARE EXPENSES

**1. Resident taxpayer.** A resident individual is allowed a credit against the tax otherwise due under this Part in the amount of 25% of the federal tax credit allowable for child and dependent care expenses in the same tax year, except that for tax years beginning in 2003, 2004 and 2005, the applicable percentage is 21.5% instead of 25%.

[ 2005, c. 519, Pt. DD, §1 (AMD) . ]

**2. Nonresident taxpayer.** A nonresident individual is allowed a credit against the tax otherwise due under this Part in the amount of 25% of the federal tax credit allowable for child and dependent care expenses multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the individual's entire federal adjusted gross income, as modified by section 5122, except that for tax years beginning in 2003, 2004 and 2005, the applicable percentage is 21.5% instead of 25%.

[ 2005, c. 519, Pt. DD, §2 (AMD) . ]

**2-A. Part-year resident taxpayer.** An individual who files a return as a part-year resident in accordance with section 5224-A is allowed a credit against the tax otherwise due under this Part in the amount of 25%, except that for tax years beginning in 2003, 2004 and 2005 the applicable percentage is 21.5%, instead of 25%, of the federal tax credit allowable for child and dependent care expenses multiplied by a ratio, the numerator of which is the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph A for that portion of the taxable year during which the individual was a resident plus the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph B for that portion of the taxable year during which the individual was a nonresident and the denominator of which is the individual's entire federal adjusted gross income, as modified by section 5122.

[ 2005, c. 519, Pt. DD, §3 (AMD) . ]

**3. Quality child care services.** The credit provided by subsections 1, 2 and 2-A doubles in amount if the child care expenses were incurred through the use of quality child care services as defined in section 5219-Q, subsection 1.

[ 2003, c. 391, §10 (AMD) . ]

**4. Refund.** The credit allowed by this section may result in a refund of up to \$500. In the case of a nonresident individual, the refundable portion of the credit may not exceed \$500 multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the individual's entire federal adjusted gross income, as modified by section 5122. In the case of an individual who files a return as a part-year resident in accordance with section 5224-A, the refundable portion of the credit may not exceed \$500 multiplied by a ratio, the numerator of which is the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph A for that portion of the taxable year during which the individual was a resident plus the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph B for that portion of the taxable year during which the individual was a nonresident and the denominator of which is the individual's entire federal adjusted gross income, as modified by section 5122.

[ 2003, c. 391, §10 (AMD) . ]

### SECTION HISTORY

1987, c. 504, §32 (NEW). 1987, c. 772, §40 (AMD). 1999, c. 401, §NNN5 (AMD). 1999, c. 401, §§NNN8,9 (AFF). 1999, c. 521, §B11 (AFF). 1999, c. 521, §B6 (RPR). 2001, c. 358, §D1 (AFF). 2001, c. 396, §38 (RPR). 2003, c. 20, §FF1 (AMD). 2003, c. 391, §10 (AMD). 2005, c. 12, §§L2-4 (AMD). 2005, c. 519, §§DD1-3 (AMD).

## **§5219. INCOME TAX CREDIT FOR INSTALLATION OF RENEWABLE ENERGY SYSTEMS**

**(REPEALED)**

### SECTION HISTORY

1987, c. 504, §32 (NEW). 1989, c. 502, §B61 (RPR).

### **§5219-A. RETIREMENT AND DISABILITY CREDIT**

**1. Resident taxpayer.** A resident individual is allowed a credit against the tax otherwise due under this Part equal to 20% of any credit the taxpayer received for the same taxable year under the Code, Section 22. In no case may this credit reduce the Maine income tax to less than zero.

[ 1999, c. 521, Pt. B, §7 (NEW); 1999, c. 521, Pt. B, §11 (AFF) .]

**2. Nonresident taxpayer.** A nonresident individual is allowed a credit against the tax otherwise due under this Part equal to 20% of any credit the individual received for the same taxable year under the Code, Section 22 multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the individual's entire federal adjusted gross income, as modified by section 5122. In no case may this credit reduce the Maine income tax to less than zero.

[ 2003, c. 390, §46 (AMD) .]

**3. Part-year resident taxpayer.** An individual who files a return as a part-year resident in accordance with section 5224-A is allowed a credit against the tax otherwise due under this Part equal to 20% of any credit the individual received for the same taxable year under the Code, Section 22 multiplied by a ratio, the numerator of which is the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph A for that portion of the taxable year during which the individual was a resident plus the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph B for that portion of the taxable year during which the individual was a nonresident, and the denominator of which is the individual's entire federal adjusted gross income, as modified by section 5122. In no case may this credit reduce the Maine income tax to less than zero.

[ 2003, c. 390, §47 (NEW) .]

### SECTION HISTORY

1987, c. 504, §32 (NEW). 1999, c. 521, §B11 (AFF). 1999, c. 521, §B7 (RPR). 2003, c. 390, §§46,47 (AMD).

### **§5219-B. CONFORMITY CREDIT**

**(REPEALED)**

### SECTION HISTORY

1987, c. 504, §32 (NEW). 2001, c. 177, §5 (RP).

## §5219-C. FOREST MANAGEMENT PLANNING INCOME CREDITS

Once every 10 years, an individual is allowed a credit against the tax otherwise due under this Part for the lesser of \$200 or the individual's cost for having a forest management and harvest plan developed by a licensed professional forester for a parcel of forest land in this State greater than 10 acres. The licensed professional forester may not be in the regular employ of the individual. This credit may not reduce the tax otherwise due under this Part to less than zero. An individual claiming this credit must attach a statement from the forester supporting the claim and swear that the credit has not been claimed by the individual in the previous 10 years. An individual claiming this credit who deducts the cost of the forest management and harvest plan as an expense under the Code must increase federal adjusted gross income by the amount of that expense for purposes of the tax imposed by this Part. [2007, c. 627, §90 (AMD).]

### SECTION HISTORY

1989, c. 501, §P32 (NEW). 1989, c. 530, §2 (NEW). 1989, c. 585, §C17 (NEW). 1989, c. 702, §E14 (AMD). 1991, c. 377, §20 (RPR). 2007, c. 437, §18 (AMD). 2007, c. 437, §22 (AFF). 2007, c. 627, §90 (AMD).

## §5219-D. SOLID WASTE REDUCTION INVESTMENT TAX CREDIT

*(REPEALED)*

### SECTION HISTORY

1989, c. 927, §6 (NEW). RR 1991, c. 2, §139 (COR). 1991, c. 528, §§R10,11 (AMD). 1991, c. 528, §§R19,RRR (AFF). 1991, c. 591, §§R10,11 (AMD). 1991, c. 591, §R19 (AFF). 1991, c. 846, §§36,37 (AMD). 1993, c. 433, §2 (AMD). 1995, c. 368, §NN3 (AMD). 1995, c. 656, §§A16,17 (AMD). 1997, c. 504, §17 (AMD). 2005, c. 618, §10 (RP).

## §5219-E. INVESTMENT TAX CREDIT

*(REPEALED)*

### SECTION HISTORY

1991, c. 377, §21 (NEW). 1991, c. 528, §§N18,BBB1 (AMD). 1991, c. 528, §§N19,RRR (AFF). 1991, c. 591, §§N18,BBB1 (AMD). 1991, c. 591, §N19 (AFF). 1993, c. 671, §3 (AMD). 1995, c. 368, §FFF1 (AMD). 1995, c. 368, §FFF3 (AFF). 1997, c. 24, §C11 (AMD). 2009, c. 496, §24 (RP).

## §5219-F. RECLAIMED WOOD WASTE AND CEDAR WASTE CREDIT

*(REPEALED)*

### SECTION HISTORY

1989, c. 935, §2 (NEW). 1991, c. 528, §N20 (AMD). 1991, c. 528, §§N21,RRR (AFF). 1991, c. 591, §N20 (AMD). 1991, c. 591, §N21 (AFF). MRSA T.36 ., §5219F/7 (RP).

## §5219-G. TAX CREDITS FOR PARTNERS, S CORPORATION SHAREHOLDERS AND BENEFICIARIES OF ESTATES AND TRUSTS

**1. Tax credits for partners and S corporation shareholders.** Each partner of a partnership or shareholder of an S corporation is allowed a credit against the tax imposed by this Part in an amount equal to the partner's or shareholder's pro rata share of the tax credits described in this chapter, except that in the case of credits attributable to a financial institution subject to tax under chapter 819, the credits are allowable only against the tax imposed by that chapter. A partner's pro rata share must equal the partner's percentage interest

in the taxable income or loss of the partnership for federal income tax purposes for the taxable year. The pro rata share of a shareholder of an S corporation must equal the shareholder's percentage share of stock of the S corporation as of the end of the taxable year.

[ 1999, c. 708, §46 (AMD) .]

**2. Tax credits for beneficiaries of estates and trusts.** Each beneficiary of an estate or trust is allowed a credit against the tax imposed by this Part in an amount equal to the beneficiary's pro rata share of the tax credits described in this chapter. A beneficiary's pro rata share must equal the beneficiary's share of federal distributable net income of the estate or trust. If the estate or trust has no federal distributable net income for the taxable year, the share of each beneficiary in the applicable tax credits is in proportion to that beneficiary's share of the estate or trust income for that year, under local law or the terms of the instrument, which is required to be distributed currently, and any other amounts of income distributed in that year. Any balance of the applicable credits is allocated to the estate or trust.

[ 1999, c. 521, Pt. B, §8 (NEW); 1999, c. 521, Pt. B, §11 (AFF) .]

#### SECTION HISTORY

1991, c. 546, §34 (NEW). 1997, c. 746, §20 (AMD). 1997, c. 746, §24 (AFF). 1999, c. 521, §B11 (AFF). 1999, c. 521, §B8 (RPR). 1999, c. 708, §46 (AMD).

## §5219-H. APPLICATION OF CREDITS AGAINST TAXES

**1. Meaning of tax.** Whenever a credit provision in this chapter, other than section 5216-B, section 5219-W, section 5219-BB and the income tax credit under the Maine New Markets Capital Investment Program under Title 10, section 1100-Z, allows for a credit "against the tax otherwise due under this Part," "against the tax imposed by this Part" or similar language, "tax" means all taxes imposed under this Part, except the minimum tax imposed by section 5203-C and the taxes imposed by chapter 827.

A. [2003, c. 673, Pt. F, §2 (AFF); 2003, c. 673, Pt. F, §1 (RP).]

B. [2003, c. 673, Pt. F, §2 (AFF); 2003, c. 673, Pt. F, §1 (RP).]

[ 2011, c. 644, §29 (AMD); 2011, c. 644, §32 (AFF) .]

**2. Meaning of tax liability.** Whenever a credit provided for in this chapter is limited by reference to tax liability, "tax liability" means the taxpayer's liability for all taxes imposed under this Part, except the minimum tax imposed by section 5203-C and the taxes imposed by chapter 827.

A. [2003, c. 673, Pt. F, §2 (AFF); 2003, c. 673, Pt. F, §1 (RP).]

B. [2003, c. 673, Pt. F, §2 (AFF); 2003, c. 673, Pt. F, §1 (RP).]

[ 2011, c. 240, §36 (AMD) .]

#### SECTION HISTORY

1991, c. 528, §BBB2 (NEW). 1991, c. 528, §RRR (AFF). 1991, c. 591, §BBB2 (NEW). 2003, c. 673, §F2 (AFF). 2003, c. 673, §F1 (RPR). 2011, c. 240, §36 (AMD). 2011, c. 644, §29 (AMD). 2011, c. 644, §32 (AFF).

## §5219-I. NURSING HOME CARE CREDIT

*(REPEALED)*

#### SECTION HISTORY

1993, c. 410, §YY3 (NEW). 1993, c. 410, §YY6 (AFF). 1993, c. 711, §3 (AFF). 1993, c. 711, §1 (RP).

## §5219-J. CATASTROPHIC HEALTH EXPENSE CREDIT (REPEALED)

### SECTION HISTORY

1993, c. 711, §2 (NEW). 1993, c. 711, §3 (AFF). 1995, c. 665, §E4 (AFF). 1995, c. 665, §E3 (RP).

## §5219-K. RESEARCH EXPENSE TAX CREDIT

**1. Credit allowed.** A taxpayer is allowed a credit against the tax due under this Part equal to the sum of 5% of the excess, if any, of the qualified research expenses for the taxable year over the base amount and 7.5% of the basic research payments determined under the Code, Section 41(e)(1)(A). The term "base amount" means the average amount per year spent on qualified research expenses over the previous 3 taxable years by the taxpayer. As used in this section, unless the context otherwise indicates, the terms "qualified research expenses," "qualified organization base period amount," "basic research" and any other terms affecting the calculation of the credit have the same meanings as under the Code, Section 41, but apply only to expenditures for research conducted in this State. In determining the amount of the credit allowable under this section, the State Tax Assessor may aggregate the activities of all corporations that are members of a controlled group of corporations, as defined by the Code, Section 41(f)(1)(A) and in addition may aggregate the activities of all entities, whether or not incorporated, that are under common control, as defined by the Code, Section 41(f)(1)(B).

[ 2007, c. 627, §91 (AMD) . ]

**2. Reduction not less than zero.** The credit allowed under this section for any taxable year may not reduce the tax due to less than zero.

[ 1995, c. 368, Pt. GGG, §7 (NEW) . ]

**3. Limitation on credit allowed.** The credit allowed under this section is limited to 100% of a corporation's first \$25,000 of tax due, as determined before the allowance of any credits, plus 75% of the corporation's tax due, as determined in excess of \$25,000. The assessor shall adopt rules similar to those authorized under the Code, Section 38(c)(5)(B) for purposes of apportioning the \$25,000 among members of a controlled group.

[ 2007, c. 627, §92 (AMD) . ]

**4. Corporations filing combined return.** In the case of corporations filing a combined return, a credit generated by an individual member corporation under the provisions of this section must first be applied against the tax due attributable to that company under this Part. A member corporation with an excess research and development credit may apply its excess credit against the tax due of another group member to the extent that that other member corporation can use additional credits under the limitations of subsection 3. Unused, unexpired credits generated by a member corporation may be carried over from year to year by the individual corporation that generated the credit, subject to the limitation in subsection 5.

[ 1997, c. 504, §18 (AMD) . ]

**5. Carryover to succeeding years.** A taxpayer entitled to a credit under this section for any taxable year may carry over and apply to the tax due for any one or more of the next succeeding 15 taxable years the portion, as reduced from year to year, of the credit that exceeds the tax due for the taxable year. A taxpayer may carry over and apply to the tax due for any subsequent taxable year the portion of those credits, as reduced from year to year, not allowed by subsection 3.

[ 1995, c. 368, Pt. GGG, §7 (NEW) .]

**6. Additional rules.** The State Tax Assessor shall adopt such rules as are necessary to implement this section.

[ 1995, c. 368, Pt. GGG, §7 (NEW) .]

**7. Application.** This section applies to any tax year beginning on or after January 1, 1996.

[ 1995, c. 368, Pt. GGG, §7 (NEW) .]

#### SECTION HISTORY

1995, c. 368, §GGG7 (NEW). 1997, c. 504, §18 (AMD). 1999, c. 127, §B9 (AMD). 2007, c. 627, §§91, 92 (AMD).

## §5219-L. SUPER CREDIT FOR SUBSTANTIALLY INCREASED RESEARCH AND DEVELOPMENT

**1. Super credit allowed for substantial expansions of research and development.** For tax years beginning before January 1, 2014, a taxpayer that qualifies for the research expense tax credit allowed under section 5219-K is allowed an additional credit against the tax due under this Part equal to the excess, if any, of qualified research expenses for the taxable year over the super credit base amount. For purposes of this section, "super credit base amount" means the average amount spent on qualified research expenses by the taxpayer in the 3 taxable years immediately preceding the effective date of this section, increased by 50%. For purposes of this section, "qualified research expenses" has the same meaning as under the Code, Section 41 but applies only to expenditures for research conducted in this State.

[ 2013, c. 502, Pt. J, §1 (AMD); 2013, c. 502, Pt. J, §3 (AFF) .]

**2. Amount of super credit allowed.** The credit allowed under this section is limited to 50% of the taxpayer's tax due after the allowance of any other credits taken pursuant to this chapter.

[ 1997, c. 557, Pt. B, §10 (NEW); 1997, c. 557, Pt. B, §14 (AFF); 1997, c. 557, Pt. G, §1 (AFF) .]

**3. Carry over to succeeding years.** A taxpayer entitled to a credit under this section for any taxable year may carry over and apply to the tax due for any one or more of the next succeeding 10 taxable years the portion, as reduced from year to year, of any unused credit, but in no event may the credit applied in any single year exceed 25% of the taxpayer's tax due after the allowance of any other credits taken pursuant to this chapter.

[ 2013, c. 502, Pt. J, §2 (AMD); 2013, c. 502, Pt. J, §3 (AFF) .]

**4. Limitation.** The credit provided by this section may not be used to reduce the taxpayer's tax liability under this Part to less than the amount of the taxpayer's tax due in the preceding taxable year after the allowance of any credits taken pursuant to this chapter.

[ 1997, c. 557, Pt. B, §10 (NEW); 1997, c. 557, Pt. B, §14 (AFF); 1997, c. 557, Pt. G, §1 (AFF) .]

**5. Corporations filing combined returns.** In the case of corporations filing a combined return, a credit generated by an individual member corporation under the provisions of this section must first be applied against the tax due attributable to that company under this Part. A member corporation with an excess research and development credit may apply its excess credit against the tax due of another group member to the extent that that other member corporation can use additional credits under the limitations of subsection 4. Unused, unexpired credits generated by a member corporation may be carried over from year to year by the individual corporation that generated the credit, subject to the limitation in subsection 3.

[ 1997, c. 557, Pt. B, §10 (NEW); 1997, c. 557, Pt. B, §14 (AFF); 1997, c. 557, Pt. G, §1 (AFF) .]

#### SECTION HISTORY

1997, c. 557, §B10 (NEW). 1997, c. 557, §§B14,G1 (AFF). 2007, c. 627, §93 (AMD). 2013, c. 502, Pt. J, §§1, 2 (AMD). 2013, c. 502, Pt. J, §3 (AFF).

## §5219-M. HIGH-TECHNOLOGY INVESTMENT TAX CREDIT

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "High-technology activity" means:

(1) The design, creation and production of computer software, computer equipment, supporting communications components and other accessories that are directly associated with computer software and computer equipment; and

(2) The provision of Internet access services and advanced telecommunications services. [ 2001, c. 358, Pt. M, §1 (AMD); 2001, c. 358, Pt. M, §6 (AFF). ]

B. "Investment credit base" means the total adjusted basis of the eligible equipment for federal income tax purposes of the taxpayer on the date that the equipment was placed into service for the first time in the State by the taxpayer or other person during the tax year for which the credit is claimed. In computing the adjusted basis of the eligible equipment on the date placed in service for the first time in the State, the total allowable depreciation of the equipment for the tax year must be multiplied by a fraction the numerator of which is the number of days that the equipment was in service in the State during the tax year and the denominator of which is the total number of days that the equipment was in service during the tax year. [ 1997, c. 668, §31 (AMD); 1997, c. 668, §42 (AFF) . ]

C. "Eligible equipment" means all computer equipment, electronics components and accessories, communications equipment and computer software placed into service in the State and used primarily in high-technology activity, provided that otherwise eligible equipment used in wire line telecommunications must be capable of transmitting data at 200 kilobits or more per second in at least one direction and otherwise eligible equipment used in wireless telecommunications equipment must be capable of transmitting data at 42 kilobits or more per second in at least one direction. [ 2001, c. 358, Pt. M, §2 (AMD); 2001, c. 358, Pt. M, §6 (AFF). ]

D. "Primarily" means more than 50% of the time. [ 1999, c. 414, §47 (NEW) . ]

E. "Qualified lessor" means a person that leases or subleases eligible equipment to a person that is engaged primarily in high technology activity, but only when:

- (1) The eligible equipment is used primarily in the high technology activity engaged in by the lessee or sublessee;
- (2) The lessor derived aggregate total lease payments from personal property of at least 3 times the total payments received from eligible equipment during the taxable year; and
- (3) The lease or sublease upon which the credit is based qualifies as a lease of property for federal income tax purposes under the guidelines contained in Revenue Procedure 2001-28 of the United States Department of the Treasury, Internal Revenue Service. [2003, c. 673, Pt. G, §1 (NEW); 2003, c. 673, Pt. G, §3 (AFF).]

[ 2003, c. 673, Pt. G, §1 (AMD); 2003, c. 673, Pt. G, §3 (AFF) .]

**1-A. Credit allowed.** The following persons are allowed a credit as follows.

A. Unless entitlement to the credit is waived by the user pursuant to paragraph B:

- (1) A person engaged primarily in high technology activity that purchases and uses eligible equipment in that activity may claim a credit in the amount of that person's investment credit base subject to the limitations provided by subsection 4; or
- (2) A person engaged primarily in a high technology activity that leases and uses eligible equipment in that activity may claim a credit in the amount of the lease payments made on the eligible equipment in each tax year, except that if the eligible equipment is depreciable by that person for federal income tax purposes, the credit is based on that person's investment credit base subject to the limitations provided by subsection 4. [2001, c. 358, Pt. M, §3 (AMD); 2001, c. 358, Pt. M, §6 (AFF).]

B. When a qualified lessor provides the assessor with satisfactory evidence that the lessee or sublessee of eligible equipment has waived its right to claim a credit under this section that it is otherwise entitled to claim with respect to that equipment:

- (1) A qualified lessor that leases eligible equipment may claim a credit in the amount of the lessee's investment credit base to the extent of the credits waived by the lessee, net of any lease payments received for the eligible equipment in the taxable year, subject to the limitations provided by subsection 4; and
- (2) A qualified lessor that subleases eligible equipment may claim a credit in the amount of the lease payments made on the eligible equipment in each tax year, net of sublease payments received in the taxable year, except that if the eligible equipment is depreciable by the sublessee for federal income tax purposes, the credit is based on the sublessee's investment credit base to the extent of the credits waived by the sublessee subject to the limitations provided by subsection 4. [2003, c. 673, Pt. G, §2 (AMD); 2003, c. 673, Pt. G, §3 (AFF).]

[ 2003, c. 673, Pt. G, §2 (AMD); 2003, c. 673, Pt. G, §3 (AFF) .]

**2. Purchaser of eligible equipment; credit allowed.**

[ 1997, c. 668, §42 (AFF); 1997, c. 668, §33 (RP) .]

**3. Lessor of eligible equipment; credit allowed.**

[ 1997, c. 668, §42 (AFF); 1997, c. 668, §33 (RP) .]

**4. Limitations.** The credit allowed by this section, including amounts carried to the tax year pursuant to subsection 5, may not be used:

A. To reduce a person's tax liability under this Part to less than zero; [2001, c. 358, Pt. M, §4 (NEW); 2001, c. 358, Pt. M, §6 (AFF).]

B. To reduce a person's tax liability under this Part to less than the amount of the taxpayer's tax liability in the preceding taxable year after the allowance of any other credits taken pursuant to this chapter; or [2001, c. 358, Pt. M, §4 (NEW); 2001, c. 358, Pt. M, §6 (AFF).]

C. Except as otherwise provided by subsection 5, paragraph B, to reduce a person's tax liability by more than \$100,000, after the allowance of all other tax credits except for the credits allowed under sections 5216-C and 5219-L. [2001, c. 358, Pt. M, §4 (NEW); 2001, c. 358, Pt. M, §6 (AFF).]

[ 2001, c. 358, Pt. M, §6 (AFF); 2001, c. 358, Pt. M, §4 (RPR) .]

**5. Carry over to succeeding years.** Unused credits may be carried forward to succeeding tax years as follows.

A. A person entitled to a credit under this section for any taxable year may carry over and apply to the tax liability for any one or more of the next succeeding 5 taxable years the portion of any unused credits. [2001, c. 358, Pt. M, §4 (NEW); 2001, c. 358, Pt. M, §6 (AFF).]

B. Unused credits for which a person was eligible, but did not claim, for tax years ending prior to January 1, 2001 may be carried forward and applied to the tax liability for any one or more of the next succeeding 10 taxable years to the extent that those credits relate to equipment that meets the definition of eligible equipment in effect for tax years beginning on or after January 1, 2001. Credits carried forward that are allowed to a person pursuant to this paragraph are limited to \$100,000 per year, except that if a person's investment credit base for any taxable year beginning on or after January 1, 2001 is less than \$100,000, the credit allowed under this paragraph may be increased by an amount equal to the difference between \$100,000 and the person's investment credit base, provided that the credit allowed by this section may in no event exceed \$200,000. [2001, c. 358, Pt. M, §4 (NEW); 2001, c. 358, Pt. M, §6 (AFF).]

[ 2001, c. 358, Pt. M, §6 (AFF); 2001, c. 358, Pt. M, §4 (RPR) .]

**6. Corporations filing combined return.** In the case of corporations filing a combined return, a credit generated by an individual member corporation under the provisions of this section must first be applied against the tax liability attributable to that company under this Part. A member corporation with an excess high-technology investment tax credit may apply its excess credit against the tax liability of other group members to the extent that the other member corporations can use additional credits under the limitations of subsection 4. Unused, unexpired credits generated by a member corporation may be carried over from year to year by the individual corporation that generated the credit, subject to the limitations in subsection 5, and the rules set forth in this paragraph for applying the credit to the tax liability of other group members are applicable in the years to which credits are carried forward.

[ 2001, c. 358, Pt. M, §5 (AMD); 2001, c. 358, Pt. M, §6 (AFF) .]

#### SECTION HISTORY

1997, c. 557, §B10 (NEW). 1997, c. 557, §§B14,G1 (AFF). 1997, c. 668, §§31-34 (AMD). 1997, c. 668, §42 (AFF). 1999, c. 414, §47 (AMD). 2001, c. 358, §§M1-5 (AMD). 2001, c. 358, §M6 (AFF). 2003, c. 673, §§G1,2 (AMD). 2003, c. 673, §G3 (AFF).

### §5219-N. LOW-INCOME TAX CREDIT

*(REPEALED)*

#### SECTION HISTORY

1997, c. 557, §E1 (NEW). 1997, c. 557, §§E2,G1 (AFF). 2003, c. 390, §48 (AMD). 2003, c. 673, §JJ5 (AMD). 2003, c. 673, §JJ6 (AFF). 2013, c. 331, Pt. C, §40 (AFF). 2013, c. 331, Pt. C, §35 (RP).

## §5219-O. CREDIT FOR DEPENDENT HEALTH BENEFITS PAID

**1. Credit allowed.** A taxpayer constituting an employing unit that employs fewer than 5 employees is allowed a credit to be computed as provided in this section against the tax imposed by this Part, subject to the limitations contained in subsections 3 and 4. The credit equals the lesser of 20% of dependent health benefits paid with respect to the taxpayer's low-income employees under a health benefit plan during the taxable year for which the credit is allowed or \$125 per low-income employee with dependent health benefits coverage. A taxpayer who received a credit under this section in the preceding year and whose number of low-income employees is 5 or more may continue to receive the credit for 2 years after the last year in which the number of employees was fewer than 5.

[ 2001, c. 396, §39 (AMD) .]

**2. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Dependent" means a dependent, as defined by Section 152 of the Code, who is under 19 years of age. [1997, c. 775, §1 (NEW); 1997, c. 775, §2 (AFF).]

B. "Dependent health benefits" means health benefits and health insurance costs allowable as deductions to the employer under Section 105 of the Code, paid by the taxpayer on behalf of the taxpayer's low-income employees for the benefit of the employees' dependents. [1997, c. 775, §1 (NEW); 1997, c. 775, §2 (AFF).]

C. "Employing unit" has the same meaning as in Title 26, section 1043. [1997, c. 775, §1 (NEW); 1997, c. 775, §2 (AFF).]

D. "Health benefit plan" means a plan that:

(1) Includes comprehensive coverage for at least the following range of benefits:

(a) Inpatient and outpatient hospital services;

(b) Physicians' surgical and medical services;

(c) Laboratory and x-ray services; and

(d) Well-baby and well-child care, including age-appropriate immunizations;

(2) Affords coverage that has an actuarial value no less than 80% of the actuarial value of coverage that is provided to employees of the State. For purposes of this paragraph, "actuarial value" means the expected cost of a benefit based on assumptions as to relevant variables such as morbidity, mortality, persistency and interest. When comparing the actuarial value of one benefit or package of benefits to another, both actuarial values must be based on the same assumptions;

(3) Imposes copayment and deductible costs on the employee that do not exceed 10% of the actuarial value of all benefits afforded by the plan; and

(4) Makes the same or comparable coverage available for the benefit of the employee's dependent children who are under 19 years of age. [1997, c. 775, §1 (NEW); 1997, c. 775, §2 (AFF).]

E. "Low-income employee" means a Maine resident whose average weekly earnings from the taxpayer do not exceed the State's average weekly wage as calculated by the Department of Labor. [1997, c. 775, §1 (NEW); 1997, c. 775, §2 (AFF).]

[ 1997, c. 775, §1 (NEW); 1997, c. 775, §2 (AFF) .]

**3. Qualifications.** A taxpayer may claim the credit allowed by this section only for those periods during which the following conditions are met:

A. The taxpayer maintains a health benefit plan that is available to all of the taxpayer's low-income employees who have been employed for 30 days or more on a schedule that exceeds either 25 hours per week or 1000 hours per year; [1997, c. 775, §1 (NEW); 1997, c. 775, §2 (AFF).]

B. The taxpayer pays at least 80% of the cost of health insurance coverage for each low-income employee who is under the health benefit plan; [1997, c. 775, §1 (NEW); 1997, c. 775, §2 (AFF).]

C. The taxpayer pays at least 60% of the cost of dependent health benefits for children under 19 years of age who are covered under the health benefit plan and who are dependents of a low-income employee; and [1997, c. 775, §1 (NEW); 1997, c. 775, §2 (AFF).]

D. The taxpayer submits documentation from the insurer of the portion of the cost of benefits attributable to coverage of dependents that qualifies for a credit under this section. [1997, c. 775, §1 (NEW); 1997, c. 775, §2 (AFF).]

[ 1997, c. 775, §1 (NEW); 1997, c. 775, §2 (AFF) .]

**4. Limitations; carry-over.** The amount of the credit that may be used by a taxpayer for a taxable year may not exceed 50% of the state income tax otherwise due under this Part for that year. The unused portion of any credit may be carried over to the following year or years for a period not to exceed 2 years. The credit allowable under this section may not be carried back to prior years.

*§5219-O. Clean fuel vehicle economic and infrastructure development*

*(As enacted by PL 1997, c. 791, Pt. A, §3 is REALLOCATED TO TITLE 36, SECTION 5219-P)*

[ 1997, c. 775, §1 (NEW); 1997, c. 775, §2 (AFF) .]

#### SECTION HISTORY

RR 1997, c. 2, §62 (RAL). 1997, c. 775, §1 (NEW). 1997, c. 775, §2 (AFF). 1997, c. 791, §A3 (NEW). 1999, c. 414, §48 (AMD). 2001, c. 396, §39 (AMD).

### **§5219-P. CLEAN FUEL VEHICLE ECONOMIC AND INFRASTRUCTURE DEVELOPMENT**

*(REALLOCATED FROM TITLE 36, SECTION 5219-O)*

**1. Definition.** As used in this section, unless the context otherwise indicates, the term "clean fuel" means any product or energy source used to propel motor vehicles, as defined in Title 29-A, section 101, other than conventional gasoline, diesel or reformulated gasoline that, when compared to conventional gasoline, diesel or reformulated gasoline, results in lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide or particulates or any combination of these. "Clean fuel" includes, but is not limited to, compressed natural gas; liquefied natural gas; liquefied petroleum gas; hydrogen; hythane, which is a combination of compressed natural gas and hydrogen; dynamic flywheels; solar energy; alcohol fuels containing not less than 85% alcohol by volume; and electricity.

[ 1997, c. 2, §62 (RAL) .]

**2. Credit allowed.** A taxpayer is allowed a credit against the tax imposed by this Part in an amount equal to the qualifying percentage of expenditures paid or incurred by the taxpayer for the construction or installation of or improvements to any filling or charging station in this State for the purposes of providing clean fuels to the general public for use in motor vehicles, as calculated pursuant to subsection 4.

[ 1999, c. 414, §49 (AMD) .]

**3. Limitation; carry-over.** The credit allowed under subsection 2 may not reduce the tax otherwise due under this Part below zero and the credit may not exceed the tax liability for income that is earned by the taxpayer from the sale of clean fuels sold for use in motor vehicles. Any unused portion of the credit may be carried over to the following year or years until exhausted.

[ 1997, c. 2, §62 (RAL) .]

**4. Qualifying percentage.** For purposes of calculating the credit, the qualifying percentage is:

A. Fifty percent for expenditures made from January 1, 1999 to December 31, 2001; and [1997, c. 2, §62 (RAL) .]

B. Twenty-five percent for expenditures made from January 1, 2002 to December 31, 2008. [2005, c. 519, Pt. PPP, §1 (AMD) .]

[ 2005, c. 519, Pt. PPP, §1 (AMD) .]

This section is effective for tax years beginning on or after January 1, 1999 and is repealed for tax years ending on or after January 1, 2009. [2005, c. 519, Pt. PPP, §2 (AMD) .]

#### SECTION HISTORY

RR 1997, c. 2, §62 (RAL). 1999, c. 414, §49 (AMD). 2005, c. 519, §§PPP1,2 (AMD).

## §5219-Q. QUALITY CHILD CARE INVESTMENT CREDIT

**1. Definition.** As used in this section, unless the context otherwise indicates, "quality child care services" means services provided at a child care site that meets minimum licensing standards and:

A. Is accredited by an independent, nationally recognized program approved by the Department of Health and Human Services, Office of Child Care and Head Start; [2005, c. 618, §11 (AMD) .]

B. Utilizes recognized quality indicators for child care services approved by the Department of Health and Human Services, Office of Child Care and Head Start; and [2005, c. 618, §12 (AMD) .]

C. Includes provisions for parent and client input, a review of the provider's policies and procedures, a review of the provider's program records and an on-site program review. [1999, c. 401, Pt. NNN, §6 (NEW); 1999, c. 401, Pt. NNN, §§8, 9 (AFF) .]

For large, multifunction agencies, only those portions of the child care sites that were reviewed by the accrediting body may be considered sites that provide quality child care services.

[ 2005, c. 618, §§11, 12 (AMD) .]

**1-A. Certification.** Upon application by an investor, the Department of Health and Human Services, Office of Child Care and Head Start shall certify if an investment in a child care site contributed significantly toward the ability of the child care site to improve its level of child care services toward the goal of providing quality child care services. The department shall send a list of taxpayers making certified investments in the previous year to the State Tax Assessor by February 1st annually.

[ 2005, c. 618, §13 (AMD) .]

**2. Credit allowed.** A taxpayer that has made an investment in child care services certified under subsection 1-A during the tax year is allowed a credit against the tax imposed by this Part in an amount equal to the qualifying portion of expenditures paid or expenses incurred by the taxpayer for certified investments in child care services as calculated pursuant to subsection 3.

[ 1999, c. 708, §47 (AMD) .]

**3. Qualifying portion.** For purposes of calculating the credit provided by this section, the qualifying portion is:

A. For a corporation, 30% of up to \$30,000 of expenditures, apportioned if part of an affiliated group engaged in a unitary business; and [1999, c. 401, Pt. NNN, §6 (NEW); 1999, c. 401, Pt. NNN, §§8, 9 (AFF).]

B. For an individual taxpayer, if the taxpayer expends at least \$10,000 in one year, \$1,000 each year for 10 years and \$10,000 at the end of the 10-year period. [1999, c. 401, Pt. NNN, §6 (NEW); 1999, c. 401, Pt. NNN, §§8, 9 (AFF).]

[ 1999, c. 708, §47 (AMD) .]

**4. Limitation; carry-over.** The credit provided by this section may not reduce the tax otherwise due under this Part below zero. Any unused portion of the credit may be carried over to the following year or years until exhausted.

*§5219-Q. Credit for rehabilitation of historic properties*

*(As enacted by PL 1999, c. 401, Pt. RRR, §1 is REALLOCATED TO TITLE 36, SECTION 5219-R)*

[ 1999, c. 708, §47 (AMD) .]

#### SECTION HISTORY

RR 1999, c. 1, §50 (RAL). 1999, c. 401, §§NNN6,RRR1 (NEW). 1999, c. 401, §§NNN8,9,RRR 2 (AFF). 1999, c. 708, §47 (AMD). 2001, c. 358, §D1 (AFF). 2003, c. 689, §B6 (REV). 2005, c. 618, §§11-13 (AMD).

## **§5219-R. CREDIT FOR REHABILITATION OF HISTORIC PROPERTIES**

*(REALLOCATED FROM TITLE 36, SECTION 5219-Q)*

**1. Credit allowed.** A taxpayer is allowed a credit against the tax imposed under this Part equal to the amount of credit claimed by the taxpayer for the taxable year under Section 47 of the Code with respect to expenditures incurred after December 31, 1999 for a certified historic structure located in the State. The credit is nonrefundable and is limited to \$100,000 annually per taxpayer. A credit received under this section is subject to the same recapture provisions, as apply to a credit received under Section 47 of the Code and to any available federal carry-back or carry-forward provisions. A credit may not be claimed under this subsection for expenditures incurred after December 31, 2007.

[ 2007, c. 539, Pt. WW, §3 (AMD) .]

**2. Credit refundable in certain cases.** Notwithstanding subsection 1, a taxpayer that is a national historic landmark developer is allowed a refundable credit in an amount equal to the credit determined by the taxpayer under Section 47 of the Code for the taxable year. The refundable credit allowed by this subsection is in lieu of the credit that is allowed to the taxpayer by subsection 1 or that would otherwise be passed through to its partners or shareholders, if any. The credit is allowed only for tax years that begin on or after January 1, 2009 but before January 1, 2013. The credit may not exceed \$500,000 per year, and unused credit amounts may be carried forward only through the 2012 tax year. In the event that more than one national historic landmark developer qualifies for the refundable credit allowed by this subsection, the maximum annual credit amount and credit carry-forward limitations established by this subsection apply to all such developers collectively, and if necessary the State Tax Assessor shall prorate the credits between those developers based on their respective share of qualified expenses incurred. For the purposes of this subsection, "national historic landmark developer" means a person that owns 2 or more structures located in the Kennebec Arsenal District National Historic Landmark.

[ 2009, c. 1, Pt. Z, §1 (AMD); 2009, c. 1, Pt. Z, §2 (AFF) .]

**3. Credit for certain local historic landmark developers; Lockwood Mill Historic District.**

Notwithstanding subsection 1, a taxpayer that is entitled to a credit under Section 47 of the Code for building Number 2 located in the Lockwood Mill Historic District in the City of Waterville is allowed a refundable credit in an amount equal to the credit determined by the taxpayer under Section 47 of the Code for the taxable year. The refundable credit allowed by this subsection is in lieu of the credit that is allowed to the taxpayer by subsection 1 or that would otherwise be passed through to its partners or shareholders, if any. The credit is allowed only for tax years that begin on or after January 1, 2008 but before January 1, 2014. The credit allowed for a calendar year must be prorated among tax years based on the respective number of days of the tax year in the calendar year and may not exceed \$1,000,000 annually. A taxpayer's unused credit amounts may be carried forward only through the 2013 tax year. In the event that more than one taxpayer qualifies for the refundable credit allowed by this subsection, the maximum annual credit amount and credit carry-forward limitations established by this subsection apply to all such taxpayers collectively, and if necessary the State Tax Assessor shall prorate the credits among those taxpayers based on their respective shares of incurred qualified rehabilitation expenditures.

[ 2007, c. 240, Pt. NNNN, §1 (NEW) .]

**4. Credit fund.** Beginning July 1, 2009, the following revenues attributable to historic rehabilitation for which a credit is claimed under this section must be transferred monthly by the State Controller to the historic rehabilitation credit fund that is established in this subsection:

A. Taxes paid under Part 3 on sales or use made for purposes of the construction portion of an eligible historic rehabilitation project; and [2007, c. 614, §1 (NEW) .]

B. Taxes paid under chapter 711-A on the transfer of real estate that is included in the project when the transfer occurred no more than one year before the federal certification of an eligible historic rehabilitation project. [2007, c. 614, §1 (NEW) .]

By the 15th day of each month, the State Tax Assessor shall notify the State Controller of the amounts to be transferred to the historic rehabilitation credit fund for the previous month. By the end of each fiscal year, the State Tax Assessor shall notify the State Controller of the total value of all credits determined under this section for tax years ending in the preceding calendar year, and the State Controller shall transfer that amount to the General Fund to the extent that resources are available in the fund. The State Tax Assessor shall submit an annual report by January 15th identifying the amounts transferred into and out of the fund under this subsection.

[ 2007, c. 614, §1 (NEW) .]

SECTION HISTORY

RR 1999, c. 1, §50 (RAL). 1999, c. 708, §48 (AMD). 2001, c. 526, §5 (AMD). 2001, c. 526, §6 (AFF). 2005, c. 519, §H1 (RPR). 2007, c. 240, Pt. NNNN, §1 (AMD). 2007, c. 539, Pt. WW, §3 (AMD). 2007, c. 614, §1 (AMD). 2009, c. 1, Pt. Z, §1 (AMD). 2009, c. 1, Pt. Z, §2 (AFF).

## §5219-S. EARNED INCOME CREDIT

**1. Resident taxpayer.** A resident individual is allowed a credit against the tax otherwise due under this Part in the amount of 5% of the federal earned income credit for the same taxable year, except that for tax years beginning in 2009 and 2010, the applicable percentage is 4%.

[ 2009, c. 213, Pt. BBBB, §16 (AMD) .]

**2. Nonresident taxpayer.** A nonresident individual is allowed a credit against the tax otherwise due under this Part in the amount of 5% of the federal earned income credit for the same taxable year, except that for tax years beginning in 2009 and 2010, the applicable percentage is 4%, multiplied by the ratio of the individual's Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph B, to the individual's entire federal adjusted gross income, as modified by section 5122.

[ 2009, c. 213, Pt. BBBB, §16 (AMD) .]

**3. Part-year resident taxpayer.** An individual who files a return as a part-year resident in accordance with section 5224-A is allowed a credit against the tax otherwise due under this Part in the amount of 5% of the federal earned income credit for the same taxable year, except that for tax years beginning in 2009 and 2010, the applicable percentage is 4%, multiplied by a ratio, the numerator of which is the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph A for that portion of the taxable year during which the individual was a resident plus the individual's Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph B for that portion of the taxable year during which the individual was a nonresident and the denominator of which is the individual's entire federal adjusted gross income, as modified by section 5122.

[ 2009, c. 213, Pt. BBBB, §16 (AMD) .]

**4. Limitation.** The credit allowed by this section may not reduce the Maine income tax to less than zero.

*§5219-S. Credit for consumption of wood processing residue*

*(As enacted by PL 1999, c. 755, §1 is REALLOCATED TO TITLE 36, SECTION 5219-T)*

[ 2007, c. 693, §31 (NEW) .]

### SECTION HISTORY

RR 1999, c. 2, §35 (RAL). 1999, c. 731, §V1 (NEW). 1999, c. 731, §V2 (AFF). 1999, c. 755, §1 (NEW). 2003, c. 20, §GG1 (AMD). 2007, c. 693, §31 (RPR). 2009, c. 213, Pt. BBBB, §16 (AMD).

## §5219-T. CREDIT FOR CONSUMPTION OF WOOD PROCESSING RESIDUE

*(REPEALED)*

*(REALLOCATED FROM TITLE 36, SECTION 5219-S)*

### SECTION HISTORY

RR 1999, c. 2, §35 (RAL). 2001, c. 358, §O6 (AFF). 2001, c. 358, §O1 (RP).

**§5219-U. EDUCATIONAL ATTAINMENT INVESTMENT TAX CREDIT****(REPEALED)**

## SECTION HISTORY

2001, c. 700, §7 (NEW). 2001, c. 700, §§10,11 (AFF). 2003, c. 20, §DD5 (AMD). 2003, c. 451, §JJ5 (AMD). 2005, c. 12, §Q5 (AMD). 2007, c. 1, Pt. O, §§6, 7 (AMD). 2007, c. 1, Pt. O, §9 (AFF). 2007, c. 539, Pt. RR, §2 (RP).

**§5219-V. RECRUITMENT CREDIT****(REPEALED)**

## SECTION HISTORY

2001, c. 700, §7 (NEW). 2001, c. 700, §§10,11 (AFF). 2003, c. 20, §DD6 (AMD). 2003, c. 451, §JJ6 (AMD). 2005, c. 12, §Q6 (AMD). 2007, c. 1, Pt. O, §8 (AMD). 2007, c. 1, Pt. O, §9 (AFF). 2007, c. 539, Pt. SS, §2 (RP).

**§5219-W. PINE TREE DEVELOPMENT ZONE TAX CREDIT**

**1. Credit allowed.** Except as provided by subsection 2, a taxpayer that is a qualified Pine Tree Development Zone business as defined in Title 30-A, section 5250-I, subsection 17 is allowed a credit in the amount of:

A. One hundred percent of the tax that would otherwise be due under this Part for each of the first 5 tax years beginning with the tax year in which the taxpayer commences its qualified business activity, as defined in Title 30-A, section 5250-I, subsection 16; and [ 2013, c. 595, Pt. K, §1 (AMD); 2013, c. 595, Pt. K, §2 (AFF). ]

B. For a business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, 50% of the tax that would otherwise be due under this Part for each of the 5 tax years following the time period in paragraph A. [ 2013, c. 595, Pt. K, §1 (AMD); 2013, c. 595, Pt. K, §2 (AFF). ]

[ 2013, c. 595, Pt. K, §1 (AMD); 2013, c. 595, Pt. K, §2 (AFF) . ]

**2. Apportioned credit in certain circumstances.** In the case of a qualified Pine Tree Development Zone business as defined in Title 30-A, section 5250-I, subsection 17 that engages in both qualified and nonqualified business activities in this State, the credit provided for in this section is limited to that portion that is attributable to the qualified business activity. The limitation is calculated by an apportionment. The apportionment is determined by a fraction, the numerator of which is the property value plus the payroll for the taxable year attributed to the qualified business activity of the business and the denominator of which is the statewide property value plus payroll for the taxable year of the business.

If the qualified business is a taxable corporation that has affiliated groups, as defined in section 5102, subsection 1-B, engaged in a unitary business, as defined in section 5102, subsection 10-A, the property and payroll values in the State of the unitary affiliated groups must be included in the apportionment fraction. The resulting fraction must be multiplied by the total tax liability otherwise due under this Part of the qualified business and those affiliated groups.

If the apportionment provisions of this subsection do not fairly reflect the amount of the credit associated with the taxpayer's qualified business activity, the taxpayer may petition for, or the State Tax Assessor may require, in respect to all or any part of the taxpayer's business activity, the employment of another reasonable method to effectuate an equitable apportionment of the credit associated with the taxpayer's qualified business activity.

[ 2005, c. 351, §26 (AFF); 2005, c. 351, §14 (RPR) .]

**3. Members of pass-through entities.** A member of a pass-through entity that is a qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5250-I, subsection 17, is allowed a credit under this section based on the tax due under this Part related to items of income, gain, deduction, loss or other items required to be reported by the pass-through entity to the member. For purposes of this subsection, "pass-through entity" means a corporation that for the applicable tax year is treated as an S corporation under the Code and a partnership, trust, limited liability company or similar entity that for the applicable tax year is not taxed as a C corporation for federal tax purposes; "member" means an individual or other owner of a pass-through entity.

[ 2005, c. 351, §26 (AFF); 2005, c. 351, §15 (RPR) .]

**4. Limitation.** The credit provided by this section may not be claimed for tax years beginning on or after January 1, 2029.

[ 2009, c. 627, §11 (AMD) .]

**5. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Property" means the average value of the taxpayer's real and tangible personal property that is owned or rented and used during the tax period. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at 8 times the net annual rental rate. The net annual rental rate is the annual rental rate paid by the taxpayer. [2005, c. 351, §16 (NEW) .]

B. "Payroll" means the total amount paid in this State during the tax period by the taxpayer for compensation, including wages, pretax employee contributions made to a benefit package and employer contributions made to an employee benefit package. [2005, c. 351, §16 (NEW) .]

[ 2005, c. 351, §16 (NEW) .]

#### SECTION HISTORY

2003, c. 451, §NNN5 (NEW). 2003, c. 451, §NNN8 (AFF). 2003, c. 688, §D5 (AMD). 2005, c. 351, §§13-16 (AMD). 2005, c. 351, §26 (AFF). 2009, c. 627, §§10, 11 (AMD). 2009, c. 627, §12 (AFF). 2013, c. 502, Pt. K, §1 (AMD). 2013, c. 502, Pt. K, §2 (AFF). 2013, c. 595, Pt. K, §1 (AMD). 2013, c. 595, Pt. K, §2 (AFF).

## §5219-X. BIOFUEL COMMERCIAL PRODUCTION AND COMMERCIAL USE

**1. Definition.** As used in this section, unless the context otherwise indicates, the term "biofuel" means any commercially produced liquid or gas used to propel motor vehicles or otherwise substitute for liquid or gaseous fuels that is derived from agricultural crops or residues or from forest products or byproducts, as distinct from petroleum or other fossil carbon sources. "Biofuel" includes, but is not limited to, ethanol, methanol derived from biomass, levulinic acid, biodiesel, pyrolysis oils from wood, hydrogen or methane from biomass, or combinations of any of the above that may be used to propel motor vehicles either alone

or in blends with conventional gasoline or diesel fuels or that may be used in place of petroleum products in whole or in part to fire heating devices or any stationary power device. The biofuel must be offered for sale and income must be derived from the commercial production of biofuel.

[ 2005, c. 330, §3 (AMD); 2005, c. 330, §44 (AFF) .]

**2. Credit allowed.** A taxpayer engaged in the production of biofuels in the State who has received certification under subsection 4 is allowed a credit against the tax imposed by this Part on income derived during the taxable year from the production of biofuel in the amount of 5¢ per gallon of liquid biofuel or gaseous biofuel with a BTU equivalent to that of one gallon of gasoline that replaces the use of petroleum or liquid fuels derived from other fossil carbon sources. In blends with petroleum or other nonbiofuels, the credit is allowed only on the portion of that blend that the biofuel constitutes. Biofuel for which the credit is allowed must meet state and federal regulatory requirements applicable to the nature and intended use of the fuel produced.

[ 2003, c. 698, §1 (NEW) .]

**3. Limitations.** A person entitled to a credit under this section for any taxable year may carry over and apply the portion of any unused credits to the tax liability on income derived from the production of biofuel for any one or more of the next succeeding 10 taxable years. The credit allowed, including carryovers, may not reduce the tax otherwise due under this Part to less than zero.

[ 2007, c. 426, §1 (AMD) .]

**4. Certification.** A taxpayer engaged in the production of biofuels who is claiming a credit under subsection 2 shall provide information to the Commissioner of Environmental Protection regarding the biofuel being produced, including the quantity of biofuel products, the type of forest or agricultural product being utilized, the nature and composition of the biofuel being produced, the proportion and composition of any nonbiofuel with which the biofuel is blended, the BTU equivalent of the biofuel as compared to the BTU value of one gallon of gasoline and the type of application for which it is intended to be used. Upon review of the information, the Commissioner of Environmental Protection shall provide the taxpayer with a letter of certification stating that the biofuel produced during the taxable year is eligible for a tax credit under this section and stating the number of gallons of biofuel produced during the taxable year.

[ 2005, c. 330, §3 (AMD); 2005, c. 330, §44 (AFF) .]

**5. Application.** This section applies to tax years beginning on or after January 1, 2004.

[ 2003, c. 698, §1 (NEW) .]

#### SECTION HISTORY

2003, c. 698, §1 (NEW). 2005, c. 330, §3 (AMD). 2005, c. 330, §44 (AFF). 2007, c. 426, §1 (AMD).

## §5219-Y. CERTIFIED VISUAL MEDIA PRODUCTION CREDIT

**1. Credit allowed.** A visual media production company, as defined in Title 5, section 13090-L, subsection 2-A, paragraph E, is allowed a credit against the taxes imposed by this Part in an amount equal to 5% of its nonwage visual media production expenses incurred with respect to a certified visual media production as defined in section 6901, subsection 1, if the visual media production company has visual media production expenses of \$75,000 or more with respect to that certified visual media production. For purposes of this section, "nonwage visual media production expenses" means visual media production expenses as defined in Title 5, section 13090-L, subsection 2-A, paragraph F, except that "nonwage visual media

production expenses" does not include certified production wages as defined in section 6901, subsection 2 or any amount that would be included in certified production wages but for the \$50,000 limit provided by section 6901, subsection 2.

[ 2011, c. 240, §37 (AMD) .]

**2. Limitation.** The credit allowed by this section may not reduce the tax otherwise due under this Part below zero and may be used only for the taxable year in which the certified visual media production, as defined in section 6901, subsection 1, is completed. Taxpayers claiming a credit under section 5219-W are not eligible for this credit.

[ 2009, c. 470, §5 (RPR) .]

#### SECTION HISTORY

2005, c. 519, §GG2 (NEW). 2009, c. 470, §5 (RPR). 2011, c. 240, §37 (AMD).

## **§5219-Z. TAX CREDIT FOR POLLUTION-REDUCING BOILERS**

*(REPEALED)*

#### SECTION HISTORY

2005, c. 519, §TTT2 (NEW). 2005, c. 519, §TTT3 (AFF). MRSA T. 36, §5219-Z, sub-§4 (RP).

## **§5219-AA. COMMUNITY WIND POWER GENERATOR CREDIT**

*(REPEALED)*

#### SECTION HISTORY

RR 2005, c. 2, §25 (COR). 2005, c. 646, §7 (NEW). MRSA T. 36, §5219-AA, sub-4 (RP).

## **§5219-BB. CREDIT FOR REHABILITATION OF HISTORIC PROPERTIES AFTER 2007**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Certified affordable housing project" means a decent, safe and sanitary dwelling, apartment or other living accommodation that has been certified by the Maine State Housing Authority as an affordable housing project pursuant to Title 30-A, section 4722, subsection 1, paragraph DD. [2009, c. 361, §28 (AMD); 2009, c. 361, §37 (AFF).]

B. "Certified historic structure" means a structure that has been certified by the Director of the Maine Historic Preservation Commission as a historic structure under Title 27, section 511. [2009, c. 361, §28 (AMD); 2009, c. 361, §37 (AFF).]

C. "Certified qualified rehabilitation expenditure" means a qualified rehabilitation expenditure, as defined by the Code, Section 47(c)(2), made between January 1, 2008 and December 31, 2023. For purposes of subsection 2, paragraph B, qualified rehabilitation expenditures incurred in the certified rehabilitation of a certified historic structure located in the State do not include a requirement that the certified historic structure be substantially rehabilitated. [2011, c. 453, §7 (AMD).]

D. [2009, c. 361, §37 (AFF); 2009, c. 361, §28 (RP).]

[ 2011, c. 453, §7 (AMD) .]

**2. Credit allowed.** A taxpayer is allowed a credit against the tax imposed under this Part:

A. Equal to 25% of the taxpayer's certified qualified rehabilitation expenditures for which a tax credit is claimed under Section 47 of the Code for a certified historic structure located in the State; or [ 2007, c. 539, Pt. WW, §4 (NEW). ]

B. Equal to 25% of the certified qualified rehabilitation expenditures of a taxpayer who incurs not less than \$50,000 and up to \$250,000 in certified qualified rehabilitation expenditures in the rehabilitation of a certified historic structure located in the State and who does not claim a credit under the Code, Section 47 with regard to those expenditures. If the certified historic structure is a condominium, as defined in Title 33, section 1601-103, subsection 7, the dollar limitations of this paragraph apply to the total aggregate amount of certified qualified rehabilitation expenditures incurred by the unit owners' association and all of the unit owners in the rehabilitation of that certified historic structure. The credit may be claimed for the taxable year in which the certified historic structure is placed in service. [ 2011, c. 240, §38 (AMD). ]

A taxpayer is allowed a credit under paragraph A or B but not both. A credit may not be claimed for expenditures incurred before January 1, 2008 or after December 31, 2023.

[ 2011, c. 240, §38 (AMD); 2011, c. 453, §8 (AMD) . ]

**3. Increased credit for a certified affordable housing project.** The credit allowed under this section is increased to 30% of certified qualified rehabilitation expenditures for a certified affordable housing project. If the certified affordable housing project for which an increased credit was allowed under this subsection does not remain an affordable housing project for 30 years from the date the affordable housing project is placed in service, the owner of the property is subject to the repayment provisions of Title 30-A, section 4722, subsection 1, paragraph DD. Upon notification by the Maine Historic Preservation Commission and the Maine State Housing Authority pursuant to Title 30-A, section 4722, subsection 1, paragraph DD, subparagraph 4, the State Tax Assessor shall raise the credit increase amount allowed under this subsection by one percentage point for tax years beginning in the calendar year of that notification. The maximum total credit allowed under this subsection may not exceed 35% of the taxpayer's certified qualified rehabilitation expenditures.

[ 2009, c. 361, §28 (AMD); 2009, c. 361, §37 (AFF) . ]

**4. Maximum credit.** The credit allowed pursuant to this section and section 2534 may not exceed the greater of:

A. Five million dollars for the portion of a certified rehabilitation as defined by the Code, Section 47(c)(2)(C) placed in service in the State in the taxable year; and [ 2013, c. 550, §1 (NEW); 2013, c. 550, §2 (AFF). ]

B. Five million dollars for each building that is a component of a certified historic structure for which a credit is claimed under this section. [ 2013, c. 550, §1 (NEW); 2013, c. 550, §2 (AFF) . ]

[ 2013, c. 550, §2 (AFF); 2013, c. 550, §1 (RPR) . ]

**5. Timing of credit.** Twenty-five percent of the credit allowed pursuant to this section must be taken in the taxable year the credit may be first claimed and 25% must be taken in each of the next 3 taxable years.

[ 2009, c. 361, §28 (AMD); 2009, c. 361, §37 (AFF) . ]

**6. Credit refundable.** The credit allowed under this section is fully refundable.

[ 2007, c. 539, Pt. WW, §4 (NEW) . ]

**7. Allocation of credit.** Credits allowed to a partnership, a limited liability company taxed as a partnership or multiple owners of property must be passed through to the partners, members or owners respectively pro rata in the same manner as under section 5219-G, subsection 1 or pursuant to an executed agreement among the partners, members or owners documenting an alternate allocation method. Credits may be allocated to partners, members or owners that are exempt from taxation under Section 501 (c)(3), Section 501 (c)(4) or Section 501 (c)(6) of the Code, and those partners, members or owners must be treated as taxpayers for the purposes of this subsection.

[ 2007, c. 693, §32 (AMD); 2007, c. 693, §37 (AFF) .]

**8. Recapture.** A credit received under subsection 2 is subject to the same recapture provisions as apply to a credit received under Section 47 of the Code.

[ 2009, c. 361, §28 (AMD); 2009, c. 361, §37 (AFF) .]

**9. Limitation.** A taxpayer who is eligible to claim a credit under section 5219-R, whether or not a credit is actually claimed, may not claim a credit under this section. In addition, a credit may not be claimed under this section with respect to expenditures incurred for rehabilitation of Building No. 2 in the Lockwood Mill Historic District in the City of Waterville.

*§5219-BB. Dental care access credit as enacted by PL 2007, c. 690, §1 was repealed by PL 2009, c. 141, §1*

[ 2007, c. 539, Pt. WW, §4 (NEW) .]

#### SECTION HISTORY

2007, c. 539, Pt. WW, §4 (NEW). 2007, c. 690, §1 (NEW). 2007, c. 693, §32 (AMD). 2007, c. 693, §37 (AFF). 2009, c. 141, §1 (RP). 2009, c. 361, §28 (AMD). 2009, c. 361, §37 (AFF). 2011, c. 240, §38 (AMD). 2011, c. 453, §§7-9 (AMD). 2011, c. 548, §31 (AMD). 2013, c. 550, §1 (AMD). 2013, c. 550, §2 (AFF).

## §5219-CC. COMMUNITY WIND POWER GENERATOR CREDIT

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commission" means the Public Utilities Commission. [2007, c. 693, §33 (NEW); 2007, c. 693, §37 (AFF).]

B. "Community wind power generation facility" means an electricity-generating facility at any one site with an instantaneous generating nameplate capacity of not more than 10 megawatts that is powered entirely by wind energy. [2007, c. 693, §33 (NEW); 2007, c. 693, §37 (AFF).]

C. "Payroll" means the total amount paid in this State during the tax period by the taxpayer for compensation, including wages, pretax employee contributions made to a benefit package and employer contributions made to an employee benefit package. [2007, c. 693, §33 (NEW); 2007, c. 693, §37 (AFF).]

D. "Property value" means the average value of the taxpayer's real and tangible personal property that is owned or rented and used during the tax period. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at 8 times the net annual rental rate. The net annual rental rate is the annual rental rate paid by the taxpayer. [2007, c. 693, §33 (NEW); 2007, c. 693, §37 (AFF).]

E. "Qualified community wind power generator" means a person that has been certified as a community wind power generator by the commission pursuant to Title 35-A, section 3403, subsection 3. [ 2007, c. 693, §33 (NEW); 2007, c. 693, §37 (AFF). ]

[ 2007, c. 693, §33 (NEW); 2007, c. 693, §37 (AFF) . ]

**2. Credit.** A taxpayer that is a qualified community wind power generator is allowed a credit against the tax imposed by this Part equal to 100% of the tax otherwise due under this Part that is attributable to ownership of a community wind power generation facility in this State. The amount of the tax attributable to ownership of a community wind power generation facility in this State is calculated by an apportionment. The apportionment is determined by multiplying a fraction, the numerator of which is the property value plus the payroll for the taxable year attributed to ownership of a community wind power generation facility in this State and the denominator of which is the statewide property value plus payroll for the taxable year of the taxpayer, by the total tax otherwise due under this Part from the qualified community wind power generator. The credit is available for the first taxable year that begins after the commencement of operation of a community wind power generation facility in this State and prior to the tax year beginning on or after January 1, 2008.

If the qualified community wind power generator is a taxable corporation that is a member of an affiliated group engaged in a unitary business, the property value and payroll in the State of the unitary affiliated group must be included in the apportionment fraction. The resulting fraction must be multiplied by the total tax otherwise due under this Part of the qualified community wind power generator and the affiliated group engaged in the unitary business.

If the apportionment provisions of this subsection do not fairly reflect the amount of the credit attributable to the taxpayer's ownership of a community wind power generation facility in this State, the taxpayer may petition for, or the State Tax Assessor may require, in respect to all or any part of the taxpayer's business activity, the employment of another reasonable method to effectuate an equitable apportionment of the credit.

[ 2007, c. 693, §33 (NEW); 2007, c. 693, §37 (AFF) . ]

**3. Qualification.** The credit allowed under this section is available only to a qualified community wind power generator certified by the commission prior to January 1, 2008.

[ 2007, c. 693, §33 (NEW); 2007, c. 693, §37 (AFF) . ]

**4. Termination of credit.** The credit provided in this section is available only for tax years beginning on or after January 1, 2006 but before January 1, 2008.

[ 2007, c. 693, §33 (NEW); 2007, c. 693, §37 (AFF) . ]

#### SECTION HISTORY

2007, c. 693, §33 (NEW). 2007, c. 693, §37 (AFF).

## §5219-DD. DENTAL CARE ACCESS CREDIT

*(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)*

*(WHOLE SECTION TEXT EFFECTIVE UNTIL 12/31/20)*

*(WHOLE SECTION TEXT REPEALED 12/31/20)*

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Eligible dentist" means a person licensed as a dentist under Title 32, chapter 16, subchapter 3 who, after January 1, 2009:

(1) First begins practicing dentistry in the State by joining an existing dental practice in an underserved area or establishing a new dental practice or purchasing an existing dental practice in an underserved area;

(2) Agrees to practice full time for at least 5 years in an underserved area; and

(3) Is certified under subsection 3 to be eligible by the oral health program. [ 2009, c. 141, §2 (NEW) . ]

B. "Oral health program" means the program within the Department of Health and Human Services with responsibility for oral health promotion and dental disease prevention activities. [ 2009, c. 141, §2 (NEW) . ]

C. "Underserved area" means an area in the State that is a dental health professional shortage area as defined by the federal Department of Health and Human Services, Health Resources and Services Administration. [ 2009, c. 141, §2 (NEW) . ]

[ 2009, c. 141, §2 (NEW) . ]

**2. Credit.** An eligible dentist determined to be eligible before January 1, 2012 is allowed a credit for each taxable year, not to exceed \$15,000, against the taxes due under this Part. For dentists determined to be eligible on or after January 1, 2012, an eligible dentist is allowed a credit for each taxable year, not to exceed \$12,000, against the taxes due under this Part. The credit may be claimed in the first year that the eligible dentist meets the conditions of eligibility for at least 6 months and each of the 4 subsequent years. The credit is not refundable.

[ 2011, c. 434, §1 (AMD) . ]

**3. Eligibility limitation; certification.** The oral health program shall certify up to 5 eligible dentists in each year in 2009, 2010 and 2011 and up to 6 additional eligible dentists in each year from 2012 through 2015. Additional dentists may not be certified after 2015. The oral health program shall monitor certified dentists to ensure that they continue to be eligible for the credit under this section and shall decertify any dentist who ceases to meet the conditions of eligibility. The oral health program shall notify the bureau whenever a dentist is certified or decertified. A decertified dentist ceases to be eligible for the credit under this section beginning with the tax year during which the dentist is decertified.

[ 2011, c. 434, §2 (AMD) . ]

**4. Review.** By March 1, 2011, the oral health program shall submit to the joint standing committee of the Legislature having jurisdiction over taxation matters a report that analyzes the effectiveness of the credit provided by this section in attracting dentists to underserved areas and recommending whether the credit should be retained, repealed or amended. The committee may submit legislation to the First Regular Session of the 125th Legislature related to the report.

[ 2009, c. 141, §2 (NEW) . ]

**5. Rules.** The Department of Health and Human Services may adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[ 2009, c. 141, §2 (NEW) . ]

**6. Repeal.** This section is repealed December 31, 2020.

[ 2011, c. 434, §3 (AMD) . ]

## SECTION HISTORY

2009, c. 141, §2 (NEW). 2011, c. 434, §§1-3 (AMD).

## §5219-EE. MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM INNOVATION FINANCE CREDIT

*(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)*

*(WHOLE SECTION TEXT EFFECTIVE UNTIL 4/16/29)*

*(WHOLE SECTION TEXT REPEALED 4/16/29)*

**1. Credit allowed.** The Finance Authority of Maine is authorized to issue to the Maine Public Employees Retirement System, referred to in this section as "the retirement system," a refundable credit against the taxes imposed by this Part in an amount certified by the Finance Authority of Maine as equal either to \$4,000,000 or 80% of any loss of capital sustained in the innovation finance program established under Title 10, section 1026-T, whichever is less. Upon receipt of a certification as provided in Title 10, section 1026-T, subsection 4, paragraph E, the Department of Administrative and Financial Services, Bureau of Revenue Services shall pay the amount certified to the retirement system as provided in that subsection.

[ 2009, c. 633, §5 (NEW) .]

**2. Reimbursement by the retirement system.** In the event that the retirement system incurs a loss and redeems a credit under this section and the retirement system subsequently achieves an aggregate return on all of its investments under the innovation finance program under Title 10, section 1026-T that exceeds an annualized return of 8%, the retirement system shall reimburse the State in an amount equal to the total amount of credits paid to the retirement system under this section.

[ 2009, c. 633, §5 (NEW) .]

**3. Limitations.** A credit under this section may not be redeemed for any loss occurring after July 1, 2028. Pursuant to Title 10, section 1026-T, total credits redeemed may not exceed \$20,000,000.

[ 2009, c. 633, §5 (NEW) .]

**4. Audit.** The State Tax Assessor may audit any transactions necessary to verify the amount of credits claimed or redeemed under this section. If the assessor determines that a credit larger than that authorized by this section has been received, the assessor may enforce repayment of the overpayment by assessment pursuant to the provisions of chapter 7 or may apply the overpayment against subsequent redemptions made pursuant to this section.

[ 2009, c. 633, §5 (NEW) .]

**5. Repeal.** This section is repealed April 16, 2029.

[ 2009, c. 633, §5 (NEW) .]

### SECTION HISTORY

2009, c. 633, §5 (NEW).

## §5219-FF. CREDIT FOR WELLNESS PROGRAMS

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employee" means an individual who performs services for an employing unit. [ 2011, c. 90, Pt. H, §7 (NEW); 2011, c. 90, Pt. H, §8 (AFF).]

B. "Employing unit" has the same meaning as in Title 26, section 1043, subsection 10. [2011, c. 90, Pt. H, §7 (NEW); 2011, c. 90, Pt. H, §8 (AFF).]

C. "Qualified wellness program expenditure" means an expenditure made by an employing unit to develop, institute and maintain a wellness program. [2011, c. 90, Pt. H, §7 (NEW); 2011, c. 90, Pt. H, §8 (AFF).]

D. "Wellness program" means a program instituted by an employing unit that improves employee health, morale and productivity, including, without limitation:

- (1) Health education programs;
- (2) Behavioral change programs, such as counseling or seminars or classes on nutrition, stress management or smoking cessation; and
- (3) Incentive awards to employees who engage in regular physical activity. [2011, c. 90, Pt. H, §7 (NEW); 2011, c. 90, Pt. H, §8 (AFF).]

[ 2011, c. 90, Pt. H, §7 (NEW); 2011, c. 90, Pt. H, §8 (AFF) .]

**2. Credit allowed.** A taxpayer constituting an employing unit with 20 or fewer employees, on an average monthly basis during the taxable year, is allowed a credit against the tax imposed by this Part for each taxable year beginning on or after January 1, 2014 for a qualified wellness program expenditure made during the taxable year.

[ 2011, c. 90, Pt. H, §7 (NEW); 2011, c. 90, Pt. H, §8 (AFF) .]

**3. Record keeping.** An employing unit seeking a credit under subsection 2 is responsible for recording the amount of time employees engage in wellness programs for which the employing unit is claiming an expense.

[ 2011, c. 90, Pt. H, §7 (NEW); 2011, c. 90, Pt. H, §8 (AFF) .]

**4. Limit; carry-over.** The total credit for each taxpayer under this section is limited to \$100 per employee or \$2,000, whichever is less, per tax year. The credit may not reduce the tax otherwise due under this Part to less than zero. A taxpayer entitled to a credit under this section for any taxable year may carry over the portion, as reduced from year to year, of any unused credit and apply it to the tax liability for any one or more of the next succeeding 5 taxable years.

[ 2011, c. 90, Pt. H, §7 (NEW); 2011, c. 90, Pt. H, §8 (AFF) .]

#### SECTION HISTORY

2011, c. 90, Pt. H, §7 (NEW). 2011, c. 90, Pt. H, §8 (AFF).

## §5219-GG. MAINE CAPITAL INVESTMENT CREDIT

**1. Credit allowed.** A taxpayer that claims a depreciation deduction under the Code, Section 168(k) for property placed in service in the State during the taxable year beginning in 2011 or 2012 is allowed a credit against the taxes imposed by this Part in an amount equal to 10% of the amount claimed for the taxable year under the Code, Section 168(k) with respect to that property, except for excluded property under subsection 2.

- A. [2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RP).]
- B. [2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RP).]
- C. [2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RP).]
- D. [2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RP).]
- E. [2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RP).]

F. [2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RP).]

G. [2013, c. 331, Pt. C, §41 (AFF); 2013, c. 331, Pt. C, §36 (RP).]

H. [2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RP).]

I. [2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RP).]

J. [2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RP).]

[ 2013, c. 331, Pt. C, §36 (AMD); 2013, c. 331, Pt. C, §41 (AFF) .]

**2. Certain property excluded.** The following property is not eligible for the credit under this section:

A. Property owned by a public utility as defined by Title 35-A, section 102; [2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RPR).]

B. Property owned by a person that provides radio paging services as defined by Title 35-A, section 102; [2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RPR).]

C. Property owned by a person that provides mobile telecommunications services as defined by Title 35-A, section 102; [2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RPR).]

D. Property owned by a cable television company as defined by Title 30-A, section 2001; [2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RPR).]

E. Property owned by a person that provides satellite-based direct television broadcast services; [2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RPR).]

F. Property owned by a person that provides multichannel, multipoint television distribution services; and [2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RPR).]

G. Property that is not in service in the State for the entire 12-month period following the date it is placed in service in the State. [2011, c. 548, §32 (NEW); 2011, c. 548, §36 (AFF).]

[ 2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RPR) .]

**3. Limitations; carry-forward.** The credit allowed under subsection 1 may not reduce the tax otherwise due under this Part to less than zero. Any unused portion of the credit may be carried forward to the following year or years for a period not to exceed 20 years.

[ 2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RPR) .]

**4. Recapture.** The credit allowed under this section must be fully recaptured to the extent claimed by the taxpayer if the property forming the basis of the credit is not used in the State for the entire 12-month period following the date it is placed in service in the State. The credit must be recaptured by filing an amended return in accordance with section 5227-A for the tax year in which that property was used to calculate the credit under this section. The amended return must reflect the credit disallowed and the income modifications required by section 5122, subsection 1, paragraph FF and section 5200-A, subsection 1, paragraph Y with respect to that property.

[ 2011, c. 548, §36 (AFF); 2011, c. 548, §32 (RPR) .]

#### SECTION HISTORY

2011, c. 380, Pt. O, §17 (NEW). 2011, c. 380, Pt. O, §18 (AFF). 2011, c. 380, Pt. Q, §6 (NEW). 2011, c. 380, Pt. Q, §7 (AFF). 2011, c. 548, §36 (AFF). 2011, c. 548, §32 (RPR). 2011, c. 563, §13 (AMD). 2013, c. 331, Pt. C, §36 (AMD). 2013, c. 331, Pt. C, §41 (AFF).

## §5219-HH. NEW MARKETS CAPITAL INVESTMENT CREDIT

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Applicable percentage" means 0% for each of the first 2 credit allowance dates, 7% for the 3rd credit allowance date and 8% for the next 4 credit allowance dates. [2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF).]

B. "Authority" means the Finance Authority of Maine. [2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF).]

C. "Commissioner" means the Commissioner of Administrative and Financial Services. [2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF).]

D. "Credit allowance date" means, with respect to any qualified equity investment, the date on which the investment is initially made and each of the 6 anniversary dates of the date thereafter. [2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF).]

E. "Long-term debt security" means any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least 7 years from the date of its issuance, with no acceleration of repayment, amortization or prepayment features prior to its original maturity date. The qualified community development entity that issues the debt instrument may not make cash interest payments on the debt instrument during the period commencing with its issuance and ending on its final credit allowance date in excess of the cumulative operating income, as defined in the regulations adopted pursuant to the Code, Section 45D, of the qualified community development entity for the same period prior to giving effect to interest expense on such debt instrument. This paragraph does not limit the holder's ability to accelerate payments on the debt instrument in situations when the qualified community development entity has defaulted on covenants designed to ensure compliance with this section; section 191, subsection 2, paragraph SS; section 2533; and Title 10, section 1100-Z or the Code, Section 45D. [2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF).]

F. "Purchase price" means the amount of the investment in the qualified community development entity for the qualified equity investment. [2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF).]

G. "Qualified active low-income community business" has the same meaning as in the Code, Section 45D and includes any entity making an investment under this section if, for the most recent calendar year ending prior to the date of the investment:

(1) At least 50% of the total gross income of the entity was derived from the active conduct of business activity of the entity within any municipality where the average annual unemployment rate for that year was higher than the state average unemployment rate;

(2) A substantial portion of the use of the tangible property of the entity was within any location of the State where the average annual unemployment rate for that year was higher than the state average unemployment rate; or

(3) A substantial portion of the services performed by the entity by its employees was performed in a municipality where the average annual unemployment rate for that year was higher than the state average unemployment rate. [2013, c. 331, Pt. C, §37 (AMD); 2013, c. 331, Pt. C, §41 (AFF).]

H. "Qualified community development entity" has the same meaning as in the Code, Section 45D, except that the entity must have entered into or be controlled by or under common control of an entity that has entered into an allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized by the Code, Section 45D. [2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF).]

I. "Qualified equity investment" means any equity investment in, or long-term debt security issued by, a qualified community development entity that:

- (1) Has at least 85% of its cash purchase price used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in the State by the 2nd anniversary of the initial credit allowance date;
- (2) Is acquired after December 31, 2011 at its original issuance solely in exchange for cash; and
- (3) Is designated by the issuer as a qualified equity investment and is certified by the authority pursuant to Title 10, section 1100-Z, subsection 3, paragraph G. "Qualified equity investment" includes any qualified equity investment that does not meet the provisions of Title 10, section 1100-Z, subsection 3, paragraph G if the investment was a qualified equity investment in the hands of a prior holder. The qualified community development entity shall keep sufficiently detailed books and records with respect to the investments made with the proceeds of the qualified equity investments to allow the direct tracing of the proceeds into qualified low-income community investments in qualified active low-income community businesses in the State. [2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF).]

J. "Qualified low-income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business made after September 28, 2011. Except as otherwise provided in this paragraph, with respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments that may be made with the proceeds of qualified equity investments that have been certified under Title 10, section 1100-Z, subsection 3, paragraph G is \$10,000,000 per project constructed, maintained or operated by the qualified active low-income community business whether made by one or several qualified community development entities. With respect to investments in a qualified active low-income community business that is a manufacturing or value-added production enterprise, the limit on the qualified low-income community investment is \$40,000,000 per project constructed, maintained or operated by the qualified active low-income community business. For the purposes of this paragraph, with respect to projects to which the \$10,000,000 limitation applies, "project" includes all land, buildings, structures, machinery and equipment located at the same location and constructed, maintained or operated by the qualified active low-income community business. For the purposes of this paragraph, with respect to projects to which the \$40,000,000 limitation applies, "project" means, and refers separately to, each manufacturing or value-added production facility that projects to create or retain more than 200 jobs, including the land, buildings, structures, machinery and equipment functionally related to, and integrated with, the manufacturing or production process conducted on the site of that facility. "Project" does not mean or include the component pieces of an integrated manufacturing or production process conducted on the site of a particular facility. [2013, c. 75, §1 (AMD).]

[2013, c. 75, §1 (AMD); 2013, c. 331, Pt. C, §37 (AMD); 2013, c. 331, Pt. C, §41 (AFF).]

**2. Credit allowed.** A person that holds a qualified equity investment certified by the authority pursuant to Title 10, section 1100-Z, subsection 3, paragraph G on a credit allowance date that falls within the taxable year is allowed a credit equal to the applicable percentage that applies to the credit allowance date multiplied by the purchase price paid for the qualified equity investment. Notwithstanding any other provision of law, other than the recapture provisions of subsection 7, the person, and any subsequent person, that is the holder of the credit certificate issued by the authority for a qualified equity investment is entitled, in the aggregate, to the entire 39% credit amount computed with respect to the 7 credit allowance dates. In no event may the credit amount in the aggregate exceed 39% for any single qualified equity investment certified by the authority.

[2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF).]

**3. Memorandum of agreement.** Upon receipt of the authority's written notice of the certification of a qualified equity investment's tax credit eligibility, the commissioner shall enter into an agreement on behalf of the State with the person eligible to claim the credit pursuant to Title 10, section 1100-Z, subsection 3, paragraph G. That agreement must provide that the State shall, with the exception of recapture pursuant to

subsection 7, allow the tax credit as provided for in subsection 2 and recognize that the person named as eligible for tax credit pursuant to Title 10, section 1100-Z, subsection 3, paragraph G is entitled to claim the tax credits and the respective tax credit amounts in the aggregate, to the entire 39% credit amount computed with respect to the 7 credit allowance dates.

[ 2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF) .]

**4. Carry-over to succeeding year.** Any unused portion of the credit may be carried over to the following taxable year or years, except that the carry-over period for unused credit amounts may not exceed 20 years.

[ 2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF) .]

**5. Pass-through entity; allocation of the credit.** Credits allowed pursuant to this section to a partnership, limited liability company, S corporation or other similar pass-through entity must be allocated to the partners, members, shareholders or other owners in accordance with section 5219-G or pursuant to an executed agreement among the partners, members or shareholders or other owners documenting an alternate allocation method.

[ 2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF) .]

**6. Credit refundable.** The credit allowed under this section is fully refundable.

[ 2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF) .]

**7. Recapture of credits.** The State Tax Assessor may recapture all of the credit allowed under this section if:

A. Any amount of federal tax credits available with respect to a qualified equity investment that is eligible for a tax credit under this section is recaptured under the Code, Section 45D. In such a case, the recapture must be proportionate to the federal recapture with respect to the qualified equity investment; [2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF) .]

B. The qualified community development entity redeems or makes a principal repayment with respect to the qualified equity investment that generated the tax credit prior to the final credit allowance date of the qualified equity investment. In such a case, the recapture must be proportionate to the amount of the redemption or repayment with respect to the qualified equity investment; or [2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF) .]

C. The qualified community development entity fails to invest at least 85% of the purchase price of the qualified equity investment in qualified low-income community investments in qualified active low-income community businesses located in the State within 24 months of the issuance of the qualified equity investment and maintain this level of investment in qualified low-income community investments in qualified active low-income community businesses located in the State until the last credit allowance date for the qualified equity investment. For purposes of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment is considered held by the qualified community development entity even if the investment has been sold or repaid as long as the qualified community development entity reinvests an amount equal to the capital returned to or recovered from the original investment, exclusive of any profits realized, in another qualified active low-income community business in this State within 12 months of the receipt of the capital. A qualified community development entity may not be required to reinvest capital returned from qualified low-income community investments after the 6th anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment is considered to be held by the issuer through the qualified equity investment's final credit allowance date. [2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF) .]

The qualified community development entity must be provided 90 days to cure any deficiency indicated in the authority's original recapture notice and avoid such recapture. If the entity fails or is unable to cure the deficiency within the 90-day period, the assessor shall provide the qualified community development entity and the person from whom the credit is to be recaptured with a final order of recapture. Any amount of tax credits for which a final recapture order has been issued must be recaptured from the person that actually claimed the tax credit.

[ 2011, c. 548, §33 (NEW); 2011, c. 548, §35 (AFF) .]

#### SECTION HISTORY

2011, c. 548, §33 (NEW). 2011, c. 548, §35 (AFF). 2011, c. 657, Pt. P, §1 (AMD). 2013, c. 75, §1 (AMD). 2013, c. 331, Pt. C, §37 (AMD). 2013, c. 331, Pt. C, §41 (AFF).

## §5219-II. PROPERTY TAX FAIRNESS CREDIT

For tax years beginning on or after January 1, 2013 and before January 1, 2014, a Maine resident individual is allowed a property tax fairness credit as computed under this section against the taxes imposed under this Part. [2013, c. 551, §2 (AMD).]

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Benefit base" means property taxes paid by the resident individual during the tax year on the individual's homestead in this State or rent constituting property taxes paid by the resident individual during the tax year on a homestead in the State. [2013, c. 368, Pt. L, §1 (NEW).]

B. "Dwelling" means an individual house or apartment, duplex unit, cooperative unit, condominium unit, mobile home or mobile home pad. [2013, c. 368, Pt. L, §1 (NEW).]

C. "Homestead" means the dwelling owned or rented by the taxpayer or held in a revocable living trust for the benefit of the taxpayer and occupied by the taxpayer and the taxpayer's dependents as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land, up to 10 acres, upon which it is built. "Owned" includes a vendee in possession under a land contract, one or more joint tenants or tenants in common and possession under a legally binding agreement that allows the owner of the dwelling to transfer the property but continue to occupy the dwelling as a home until some future event stated in the agreement. [2013, c. 368, Pt. L, §1 (NEW).]

D. "Rent constituting property taxes" means 25% of the gross rent actually paid in cash or its equivalent during the tax year solely for the right of occupancy of a homestead in the State. "Rent constituting property taxes" does not include rent subsidized by government programs that limit housing costs to a percentage of household income except that this exclusion does not apply to persons receiving social security disability or supplemental security income disability benefits. For the purposes of this paragraph, "gross rent" means rent paid at arm's length solely for the right of occupancy of a homestead, exclusive of charges for any utilities, services, furniture, furnishings or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement. If the landlord and tenant have not dealt with each other at arm's length, and the assessor is satisfied that the gross rent charged was excessive, the assessor may adjust the gross rent to a reasonable amount for purposes of this section. [2013, c. 368, Pt. L, §1 (NEW).]

[ 2013, c. 368, Pt. L, §1 (NEW) .]

**2. Credit.** A resident individual filing a single or married separate return or resident spouses filing joint returns with Maine adjusted gross income up to \$40,000 are allowed a credit against the taxes imposed under this Part in an amount equal to 40% of the amount by which the benefit base exceeds 10% of the resident individual's or the resident spouses' total Maine adjusted gross income as defined under section 5102, subsection 1-C, paragraph A that is greater than zero. The credit may not exceed \$300 for resident individuals

under 70 years of age as of the last day of the taxable year and \$400 for resident individuals 70 years of age and older as of the last day of the taxable year. In the case of married individuals filing a joint return, only one spouse is required to be 70 years of age and older to qualify for the \$400 credit limitation. In the case of resident married individuals filing separate returns, each of whom claim the credit on the same homestead, the credit for each spouse may not exceed \$150 if, for the taxable year, neither spouse was a resident individual 70 years of age or older or \$200 if, for the taxable year, at least one spouse was 70 years of age or older.

[ 2013, c. 368, Pt. L, §1 (NEW) .]

**3. Refundability of credit.** The tax credit is refundable after the application of nonrefundable credits.

*§5219-II. Maine capital investment credit for 2013 (As enacted by PL 2013, c. 368, Pt. TT, §18 is REALLOCATED TO TITLE 36, SECTION 5219-JJ)*

[ 2013, c. 368, Pt. L, §1 (NEW) .]

#### SECTION HISTORY

RR 2013, c. 1, §54 (RAL). 2013, c. 368, Pt. L, §1 (NEW). 2013, c. 368, Pt. TT, §18 (NEW). 2013, c. 551, §2 (AMD).

### **§5219-JJ. MAINE CAPITAL INVESTMENT CREDIT FOR 2013**

*(REALLOCATED FROM TITLE 36, SECTION 5219-II)*

**1. Credit allowed.** A taxpayer that claims a depreciation deduction under the Code, Section 168(k) for property placed in service in the State during the taxable year beginning in 2013 is allowed a credit against the taxes imposed by this Part in an amount equal to 9% of the amount of the net increase in the depreciation deduction reported as an addition to income for the taxable year under section 5122, subsection 1, paragraph HH, subparagraph (1) or section 5200-A, subsection 1, paragraph AA, subparagraph (1) with respect to that property, except for excluded property under subsection 2.

[ 2013, c. 1, §54 (RAL) .]

**2. Certain property excluded.** The following property is not eligible for the credit under this section:

A. Property owned by a public utility as defined by Title 35-A, section 102, subsection 13; [ 2013, c. 1, §54 (RAL) .]

B. Property owned by a person that provides radio paging services as defined by Title 35-A, section 102, subsection 15; [ 2013, c. 1, §54 (RAL) .]

C. Property owned by a person that provides mobile telecommunications services as defined by Title 35-A, section 102, subsection 9-A; [ 2013, c. 1, §54 (RAL) .]

D. Property owned by a cable television company as defined by Title 30-A, section 2001, subsection 2; [ 2013, c. 1, §54 (RAL) .]

E. Property owned by a person that provides satellite-based direct television broadcast services; [ 2013, c. 1, §54 (RAL) .]

F. Property owned by a person that provides multichannel, multipoint television distribution services; and [ 2013, c. 1, §54 (RAL) .]

G. Property that is not in service in the State for the entire 12-month period following the date it is placed in service in the State. [ 2013, c. 1, §54 (RAL) .]

[ 2013, c. 1, §54 (RAL) .]

**3. Limitations; carry-forward.** The credit allowed under subsection 1 may not reduce the tax otherwise due under this Part to less than zero. Any unused portion of the credit may be carried forward to the following year or years for a period not to exceed 20 years.

[ 2013, c. 1, §54 (RAL) . ]

**4. Recapture.** The credit allowed under this section must be fully recaptured to the extent claimed by the taxpayer if the property forming the basis of the credit is not used in the State for the entire 12-month period following the date it is placed in service in the State. The credit must be recaptured by filing an amended return in accordance with section 5227-A for the tax year in which that property was used to calculate the credit under this section. The amended return must reflect the credit disallowed and the income modifications required by section 5122, subsection 1, paragraph HH and section 5200-A, subsection 1, paragraph AA with respect to that property.

[ 2013, c. 1, §54 (RAL) . ]

#### SECTION HISTORY

RR 2013, c. 1, §54 (RAL) .

## §5219-KK. PROPERTY TAX FAIRNESS CREDIT FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2014

For tax years beginning on or after January 1, 2014, a Maine resident individual is allowed a property tax fairness credit as computed under this section against the taxes imposed under this Part. [ 2013, c. 551, §3 (NEW) . ]

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Benefit base" means property taxes paid by a resident individual during the tax year on the resident individual's homestead in this State or rent constituting property taxes paid by the resident individual during the tax year on a homestead in the State not exceeding the following amounts:

- (1) For persons filing as single individuals, \$2,000;
- (2) For persons filing joint returns or as heads of households that claim no more than 2 personal exemptions, \$2,600;
- (3) For persons filing joint returns or as heads of households that claim 3 or more personal exemptions, \$3,200; and
- (4) For married individuals filing separate returns, 1/2 of the amount under subparagraph (2) or (3), whichever would apply if the individual had filed a joint return for the taxable year with the individual's spouse. [ 2013, c. 551, §3 (NEW) . ]

B. "Dwelling" means an individual house or apartment, duplex unit, cooperative unit, condominium unit, mobile home or mobile home pad. [ 2013, c. 551, §3 (NEW) . ]

C. "Homestead" means the dwelling owned or rented by a taxpayer or held in a revocable living trust for the benefit of the taxpayer and occupied by the taxpayer and the taxpayer's dependents as a home and may consist of a part of a multidwelling or multipurpose building and a part of the land, up to 10 acres, upon which it is built. For purposes of this paragraph, "owned" includes a vendee in possession under a land contract, one or more joint tenants or tenants in common and possession under a legally binding agreement that allows the owner of the dwelling to transfer the property but continue to occupy the dwelling as a home until some future event stated in the agreement. [ 2013, c. 551, §3 (NEW) . ]

D. "Income" means federal adjusted gross income increased by the following amounts:

- (1) Trade or business losses; capital losses; any net loss resulting from combining the income or loss from rental real estate and royalties, the income or loss from partnerships and S corporations, the income or loss from estates and trusts, the income or loss from real estate mortgage investment conduits and the net farm rental income or loss; any loss associated with the sale of business property; and farm losses included in federal adjusted gross income;
- (2) Interest received to the extent not included in federal adjusted gross income;
- (3) Payments received under the federal Social Security Act and railroad retirement benefits to the extent not included in federal adjusted gross income; and
- (4) The following amounts deducted in arriving at federal adjusted gross income:
  - (a) Educator expenses pursuant to the Code, Section 62(a)(2)(D);
  - (b) Certain business expenses of performing artists pursuant to the Code, Section 62(a)(2)(B);
  - (c) Certain business expenses of government officials pursuant to the Code, Section 62(a)(2)(C);
  - (d) Certain business expenses of reservists pursuant to the Code, Section 62(a)(2)(E);
  - (e) Health savings account deductions pursuant to the Code, Section 62(a)(16) and Section 62(a)(19);
  - (f) Moving expenses pursuant to the Code, Section 62(a)(15);
  - (g) The deductible part of self-employment tax pursuant to the Code, Section 164(f);
  - (h) The deduction for self-employed SEP, SIMPLE and qualified plans pursuant to the Code, Section 62(a)(6);
  - (i) The self-employed health insurance deduction pursuant to the Code, Section 162(1);
  - (j) The penalty for early withdrawal of savings pursuant to the Code, Section 62(a)(9);
  - (k) Alimony paid pursuant to the Code, Section 62(a)(10);
  - (l) The IRA deduction pursuant to the Code, Section 62(a)(7);
  - (m) The student loan interest deduction pursuant to the Code, Section 62(a)(17);
  - (n) The tuition and fees deduction pursuant to the Code, Section 62(a)(18); and
  - (o) The domestic production activities deduction pursuant to the Code, Section 199. [ 2013 , c. 551 , § 3 (NEW) . ]

E. "Rent constituting property taxes" means 15% of the gross rent actually paid in cash or its equivalent during the tax year solely for the right of occupancy of a homestead in the State. For the purposes of this paragraph, "gross rent" means rent paid at arm's length solely for the right of occupancy of a homestead, exclusive of charges for any utilities, services, furniture, furnishings or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement. If the landlord and tenant have not dealt with each other at arm's length, and the assessor is satisfied that the gross rent charged was excessive, the assessor may adjust the gross rent to a reasonable amount for purposes of this section. [ 2013 , c. 551 , § 3 (NEW) . ]

[ 2013 , c. 551 , § 3 (NEW) . ]

**2. Credit.** A resident individual is allowed a credit against the taxes imposed under this Part in an amount equal to 50% of the amount by which the benefit base for the resident individual exceeds 6% of the resident individual's income. The credit may not exceed \$600 for resident individuals under 65 years of age as of the last day of the taxable year or \$900 for resident individuals 65 years of age and older as of the last day of the taxable year. In the case of married individuals filing a joint return, only one spouse is required to be 65 years of age or older to qualify for the \$900 credit limitation. In the case of resident married individuals filing

separate returns, each of whom claims the credit on the same homestead, the credit for each spouse may not exceed \$300 if, for the taxable year, neither spouse was a resident individual 65 years of age or older or \$450 if, for the taxable year, at least one spouse was 65 years of age or older.

[ 2013, c. 551, §3 (NEW) .]

**3. Refundability of credit.** The tax credit under this section is refundable after the application of nonrefundable credits.

*(Section 5219-KK as enacted by PL 2013, c. 599, §1 is REALLOCATED TO TITLE 36, SECTION 5219-LL)*

[ 2013, c. 551, §3 (NEW) .]

#### SECTION HISTORY

RR 2013, c. 2, §46 (RAL). 2013, c. 551, §3 (NEW). 2013, c. 599, §1 (NEW) .

### §5219-LL. PRIMARY CARE ACCESS CREDIT

*(REALLOCATED FROM TITLE 36, SECTION 5219-KK)*

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Eligible primary care professional" means a person licensed under Title 32, chapter 31, subchapter 3 or subchapter 4; Title 32, chapter 36, subchapter 4; or Title 32, chapter 48, subchapter 2 and who, on or after January 1, 2013:

- (1) First begins practicing primary care medicine in the State by joining an existing health care practice in an underserved area or establishing a new health care practice or purchasing an existing health care practice in an underserved area;
- (2) Agrees to practice full time for at least 5 years in an underserved area;
- (3) Is certified under subsection 3 to be eligible by the Department of Health and Human Services; and
- (4) Has an unpaid student loan owed to an institution for course work directly related to that person's training in primary care medicine. [ 2013, c. 2, §46 (RAL) .]

B. "Underserved area" means an area in the State that is a health professional shortage area or medically underserved area or that contains a medically underserved population as defined by the federal Department of Health and Human Services, Health Resources and Services Administration. [ 2013, c. 2, §46 (RAL) .]

[ 2013, c. 2, §46 (RAL) .]

**2. Credit.** For tax years beginning on or after January 1, 2014 but before January 1, 2019, an eligible primary care professional is allowed a credit against the taxes due under this Part as follows.

A. The credit may be claimed in the first year that the eligible primary care professional meets the conditions of eligibility for at least 6 months and each of the 4 subsequent years or until the student loan of the eligible primary care professional is paid in full, whichever comes first. [ 2013, c. 2, §46 (RAL) .]

B. The credit may be claimed in an amount equal to the annual payments made on the student loan not to exceed \$6,000 in the first year, \$9,000 in the 2nd year, \$12,000 in the 3rd year, \$15,000 in the 4th year and \$18,000 in the 5th year. [ 2013, c. 2, §46 (RAL) .]

C. The credit may not reduce the tax due under this Part to less than zero. [ 2013, c. 2, §46 (RAL) . ]

[ 2013, c. 2, §46 (RAL) . ]

**3. Eligibility limitation; certification.** The Department of Health and Human Services shall certify up to 5 eligible primary care professionals each year. The Department of Health and Human Services shall monitor certified primary care professionals to ensure that they continue to be eligible for the credit under this section and shall decertify any primary care professional who ceases to meet the conditions of eligibility. The Department of Health and Human Services shall notify the bureau whenever a primary care professional is certified or decertified. A decertified primary care professional ceases to be eligible for the credit under this section beginning with the tax year during which the primary care professional is decertified.

[ 2013, c. 2, §46 (RAL) . ]

**4. Rules.** The Department of Health and Human Services may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[ 2013, c. 2, §46 (RAL) . ]

**5. Annual report.** By January 15, 2016 and annually thereafter, the Department of Health and Human Services and the bureau shall submit a report to the joint standing committee of the Legislature having jurisdiction over taxation matters. The report must indicate the number of eligible primary care professionals certified and decertified each year by the Department of Health and Human Services pursuant to this section and the total annual loss of revenue attributable to the credit under subsection 2.

[ 2013, c. 2, §46 (RAL) . ]

#### SECTION HISTORY

RR 2013, c. 2, §46 (RAL) .

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